

**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/19/2011 9:40 AM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2

*IWD*  
*72370*

H  
 >>> PUBCOMMENT-OCC 1/18/2011 8:05 AM >>>

>>> <[keith@thgonzalez.com](mailto:keith@thgonzalez.com)> 1/17/2011 3:54 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP

**RN NUMBER:** RN101529493

**PERMIT NUMBER:** WQ0003511000

**DOCKET NUMBER:**

**COUNTY:** MAVERICK

**PRINCIPAL NAME:** DOS REPUBLICAS COAL PARTNERSHIP

**CN NUMBER:** CN600787782

**FROM**

**NAME:** Keith Ayers

**E-MAIL:** [keith@thgonzalez.com](mailto:keith@thgonzalez.com)

**COMPANY:**

**ADDRESS:** PO BOX 1290

EAGLE PASS TX 78853-1290

**PHONE:** 8307732325

**FAX:**

**COMMENTS:** The TCEQ Public Notice of October 21, 2010 expressly provides that the Dos Republicas Coal Partnership's Eagle Pass Mine discharge of mine seepage and storm waters may affect the public water supply of the City of Eagle Pass, aquatic life on the Elm Creek and the Rio Grande River, and contact recreation areas on these waterways. In addition to these known carcinogenic chemicals that Dos Republicas Coal Partnership is authorized to discharge into Elm Creek and the Rio Grande River on a daily basis, the following effluent chemicals will also be discharged into Elm Creek and the Rio Grande River on a daily basis, including aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium, trivalent chromium, hexavalent chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, zinc, bod, carbonaceous biochemical oxygen, chemical oxygen, organic carbon, ammonia nitrogen, total suspended solids, nitrate nitrogen, organic nitrogen, phosphorous, oil and grease, residual chlorine, total dissolved solids, sulfate, chloride, fluoride, fecal coliform, and others. Most of these chemicals are known to be highly carcinogenic and lethal to humans, agricultural animals, wildlife, aquatic species, plants, and natural fauna. According to Wikipedia, coal mining causes a number of harmful affects to the environment and humans. "When coal surfaces are exposed, pyrite (iron sulfide),...comes in contact with water and air and forms sulfuric acid. As water drains from the mine, the acid moves into the waterways, and as long as rain falls on the mine tailings the sulfuric acid production continues, whether the mine is still operating or not. This process is known as acid rock drainage (ard) or acid mine drainage (amd). If the coal is strip mined, the entire exposed seam leaches sulfuric acid, leaving the subsoil infertile on the surface and begins to pollute streams by acidifying and killing fish, plants, and aquatic animals which are sensitive to drastic ph shifts," according to Wikipedia. In addition, "surface mining can adversely impact the hydrology of a region. Deterioration of a stream quality can result from acid mine drainage, toxic trace elements, high content of dissolved solids in mine drainage water, and increased sediment loads discharged to streams. Waste piles and coal storage piles can yield sediment to streams, and leached water from these piles can be acid and contain toxic trace elements. Surface waters may be rendered unfit for agriculture, human consumption, bathing, or other household uses," says Wikipedia. Furthermore, "flood events can cause severe damage to improperly constructed or located coal haul roads, housing, coal crushing and

*me*

washing plant facilities, waste and coal storage piles, settling basin dams, surface water diversion structures, and the mine itself. Besides the danger to life and property, large amounts of sediment and poor quality water may have detrimental effects many miles downstream from a mine site after a flood. Overall, it will cause a lot of pollution in our drinking water," says Wikipedia. "Ground water supplies may be adversely affected by surface mining. These impacts include drainage of usable water from shallow aquifers; lowering of water levels in adjacent areas and changes in flow directions within aquifers; contamination of usable aquifers below mining operations due to infiltration or percolation of poor quality mine water; and increased infiltration of precipitation on spoil piles. Where coal or carbonaceous shales are present, increased infiltration may result in increased runoff of poor quality water and erosion from spoil piles; recharge of poor quality water to shallow ground water aquifers; or poor quality water flow to nearby streams. This may contaminate both ground water and nearby streams for long periods," says Wikipedia. As a citizen of Maverick County and Eagle Pass, Texas I DO NOT want my drinking water contaminated by this Mine. I am requesting a contested hearing on the two Dos Republicas Coal Partnership permit applications

P.O. Box 951  
Eagle Pass, TX 78853  
August 25, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

H OPA  
AUG 30 2011  
BY BP  
IWD  
72370

Dear Ms Chao:

I request a contested case hearing in regard to the application of the Dos Republicas Coal Partnership to operate a mine in Maverick County, TX, Permit No. WQ0003511000. I also request party status in regard to this application.

My name and address are: George Baxter  
P.O. Box 951  
Eagle Pass, TX 78853

Telephone: 830-773-6480

I am basing this request on the following factors:

- 1) I currently have party status with the Texas Railroad Commission in regard to this same applicant and the same proposed mine.
- 2) My primary concern is the same as I outlined during the public comment period (Comment 6 in the TCEQ letter of August 1, 2011 regarding this application). Namely, that the retention ponds designed to contain storm water runoff are too small (designed for a 10 year rain event) considering that the mine is projected to be in operation for 19 years. This virtually ensures that the settlement ponds will be overtopped sometime during this period, releasing many of the minerals, compounds and pollutants contained therein into Elm Creek.
- 3) The primary effect of this would be to contaminate the drinking water source of the City of Eagle Pass (the Rio Grande) and cut off the entire population from potable water. My residence is connected to the city water system and thus I would be so affected.
- 4) More specific to my situation is that my residence is located on Kypuros Road in the Hopedale area, less than one-half mile from Elm Creek, the sole route of discharge for all mine runoff. In the event of a heavy rainfall in which both the retention ponds are overtopped and Elm Creek rises over its banks (the latter having happened twice in the past 13 years), my property may well be flooded since it lies at a low point in the almost flat Hopedale area. During heavy rains, water flows to my property from the North, East and West. If mine water runoff was carried by flood water onto my property, all the minerals, compounds and pollutants would be deposited there when the waters receded. This would have several deleterious effects. The first would be a serious threat to the

CHIEF CLERK'S OFFICE  
AUG 29 PM 2:58  
TEXAS RAILROAD COMMISSION  
CHIEF CLERK'S OFFICE  
MIDLAND COUNTY

MC

~~health of me and my family if we continued living there. My wife has many allergies and~~  
is extremely sensitive to environmental pollution. Secondly, it would markedly lessen  
my property's value and make sale of it extremely difficult. Among other things, these  
chemicals would probably poison the ground, killing the trees, shrubs and grass on the  
one acre lot. Over the past 30 years, I have spent thousands of dollars in the acquisition,  
care and watering of these plants and would so lose this investment.

5) In a similar vein, the mine pollutants flowing into Elm Creek may well contain  
odoriferous materials such as sulfur compounds. This would create a stench along the  
entire length of Elm Creek, lessening property values and greatly affecting the quality of  
life in a negative way.

Thank you for your consideration of this request.

Sincerely



George Baxter

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From/Expéditeur:

G. BAXTER  
P.O. BOX 951  
EAGLE PASS, TX 78853

To/Destinataire:

MELISSA CHAO  
ACTING CHIEF CLERK  
TCEQ, MC-105  
P.O. BOX 13087  
AUSTIN, TX 78711-3087

Country of Destination/Pays de destination:

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78711



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TCEQ MAIL CENTER  
RG



EP14F

092708\_PM\_EP14F OCT 2008

Done formal oral comments (28)

Spoke a second time - gave more comments (30)

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

talked about pictures  
IP 160212

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2011 JAN 31 PM 4:48  
CHIEF CLERKS OFFICE

PLEASE PRINT

Name: GEORGE BAXTER

Mailing Address: P.O. BOX 951 EAGLE PASS, TX 78853

Physical Address (if different): FM 1589

City/State: EAGLE PASS, TX Zip: 78852

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

Please add me to the mailing list. ✓

H  
OPA RECEIVED  
JAN 25 2011  
AT PUBLIC MEETING

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

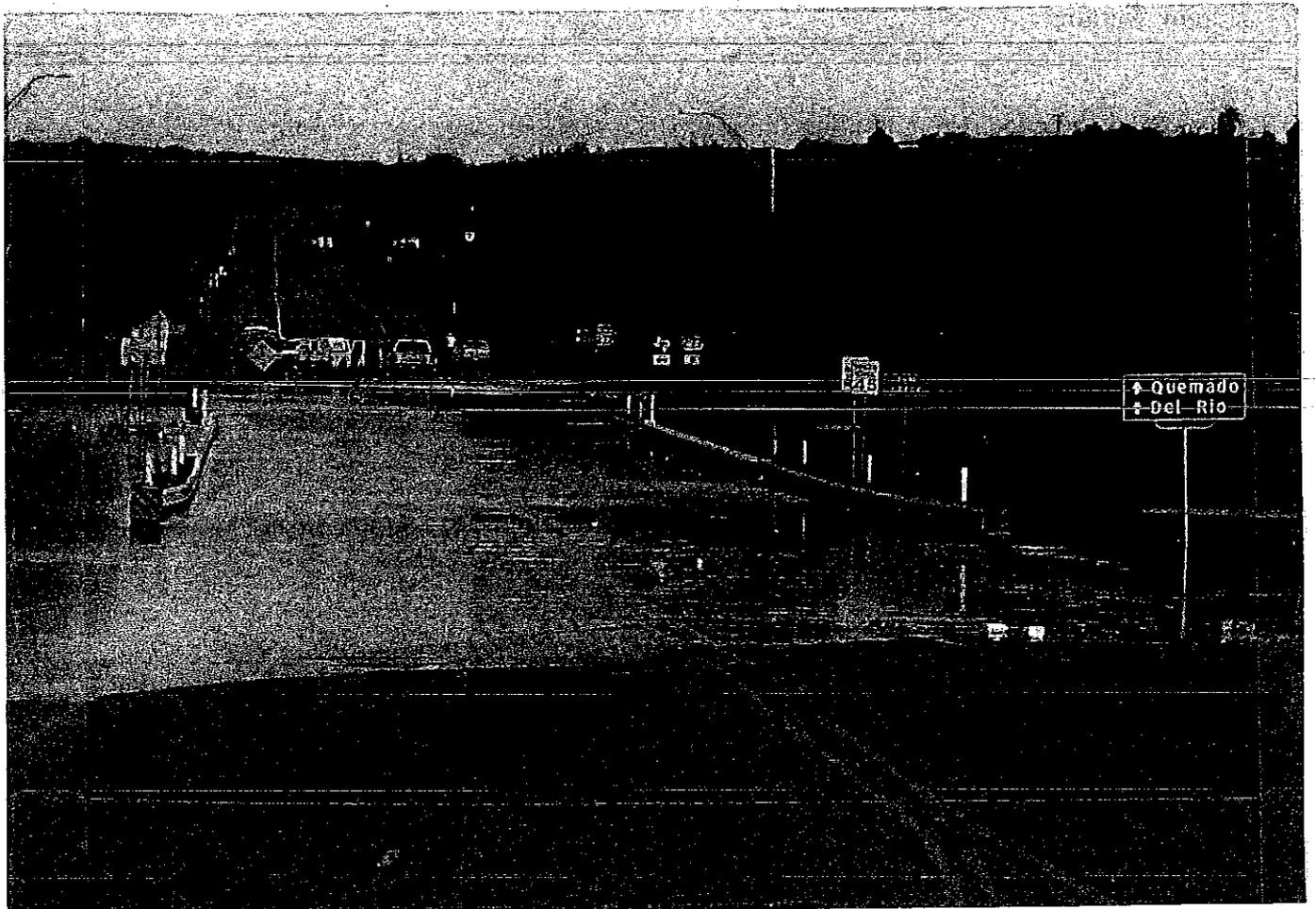
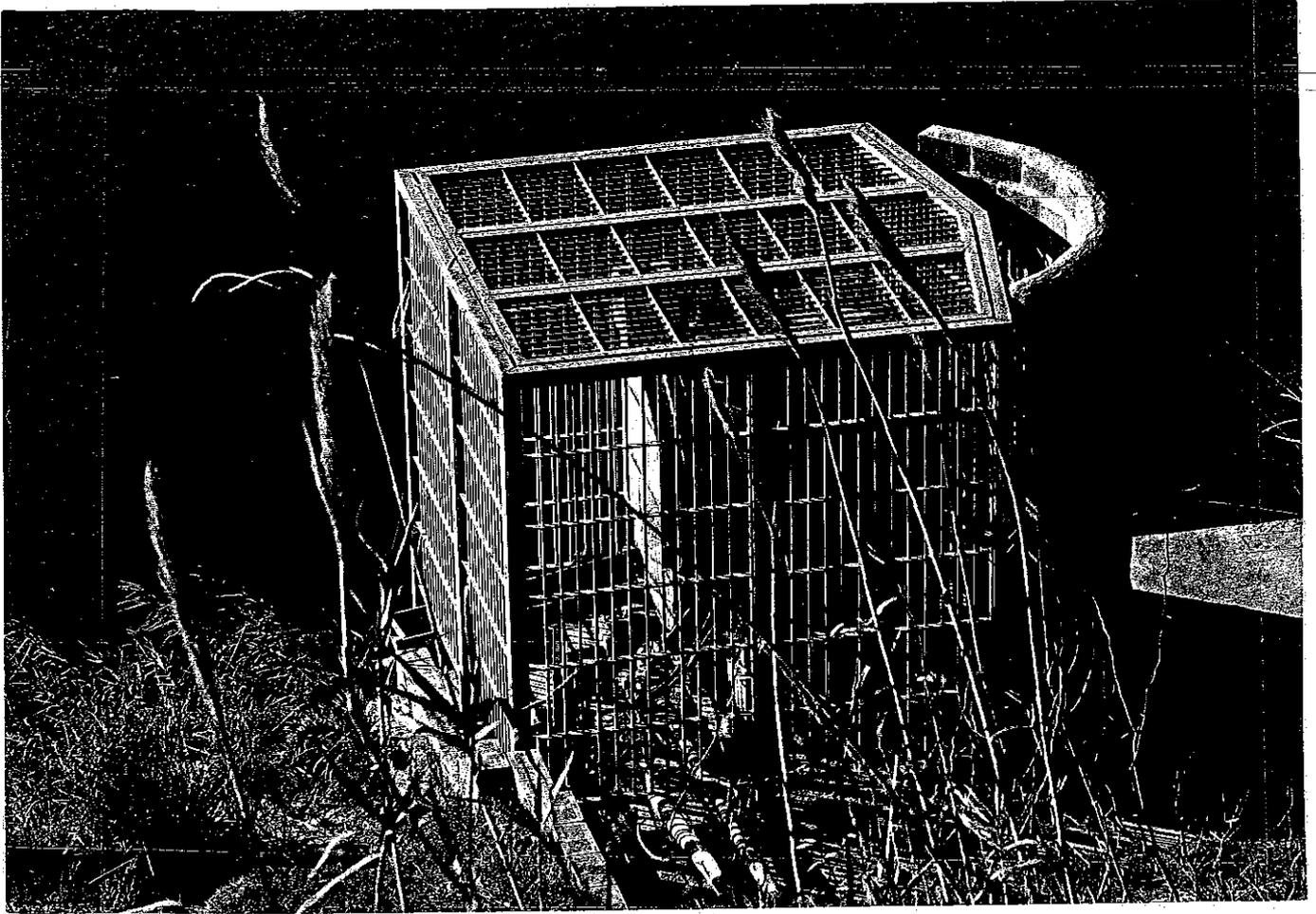
I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

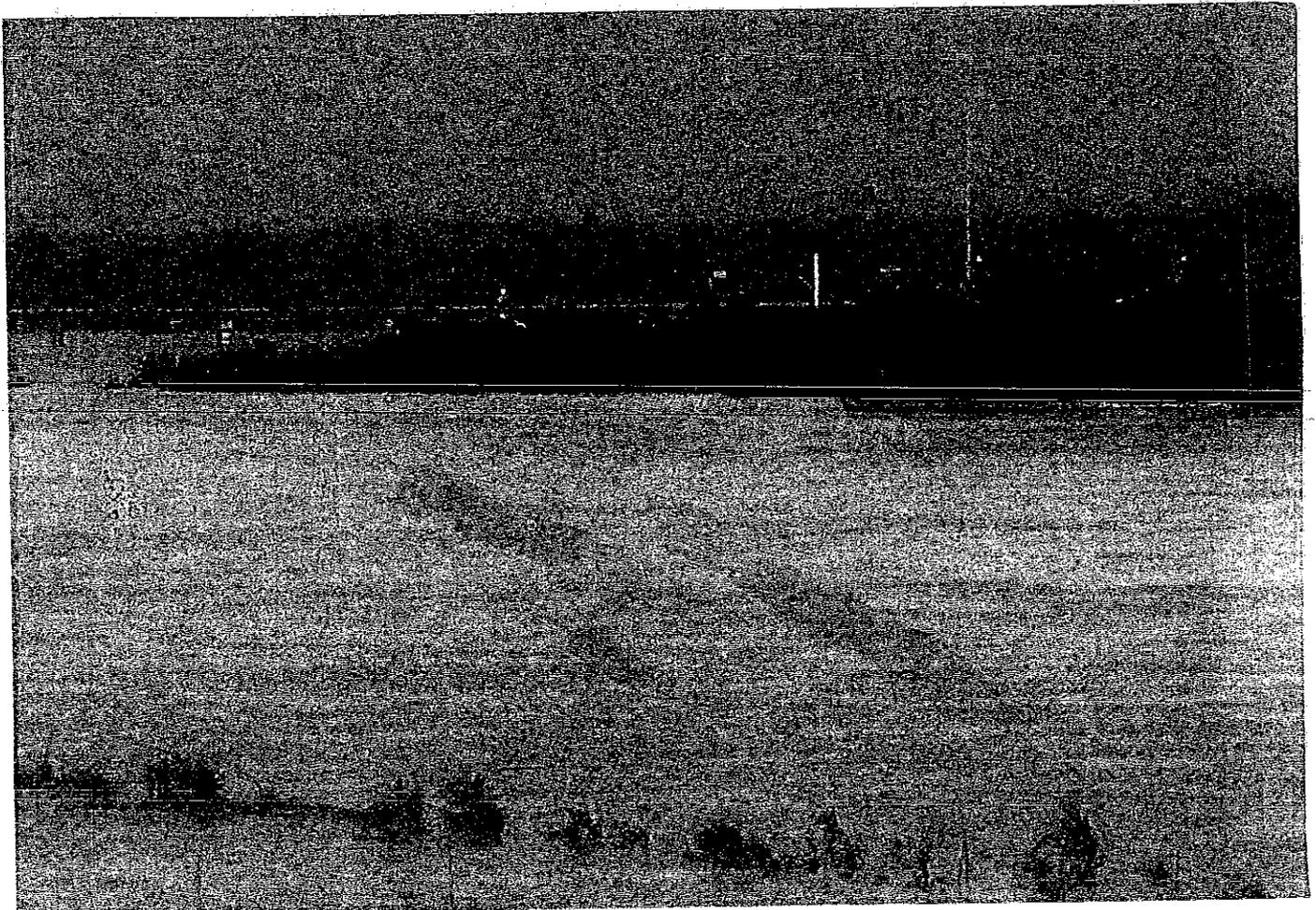
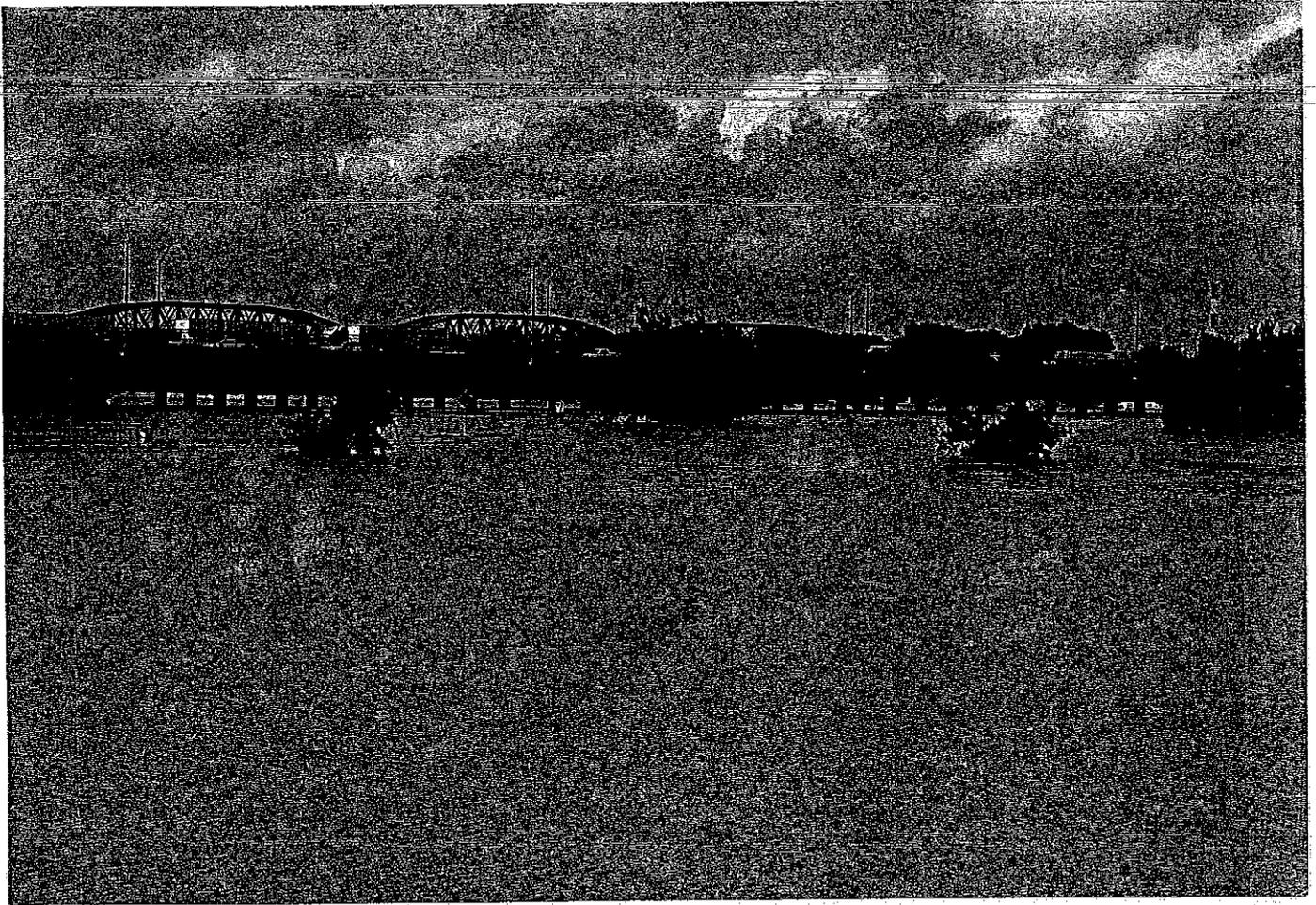
(Written comments may be submitted at any time during the meeting)

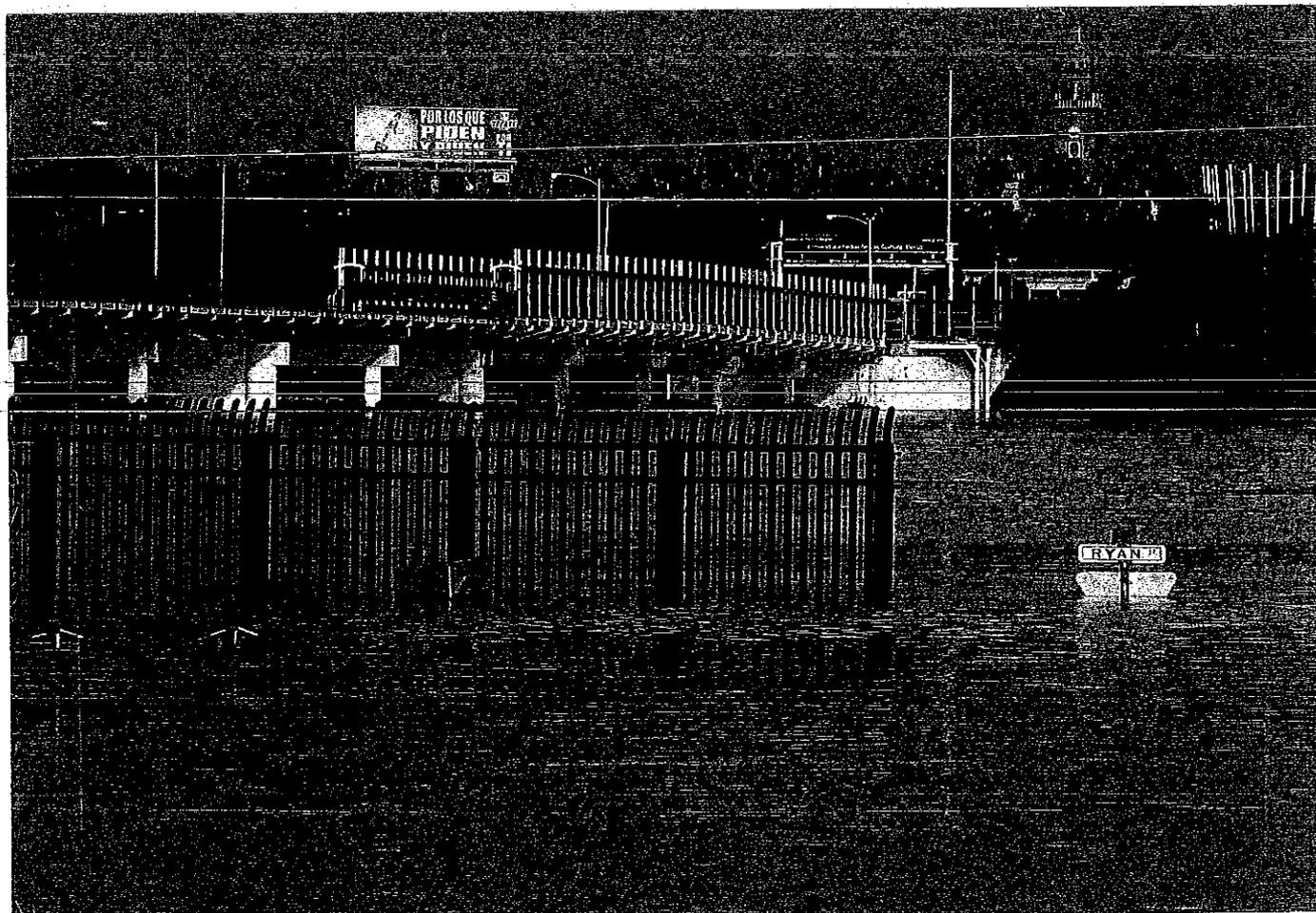
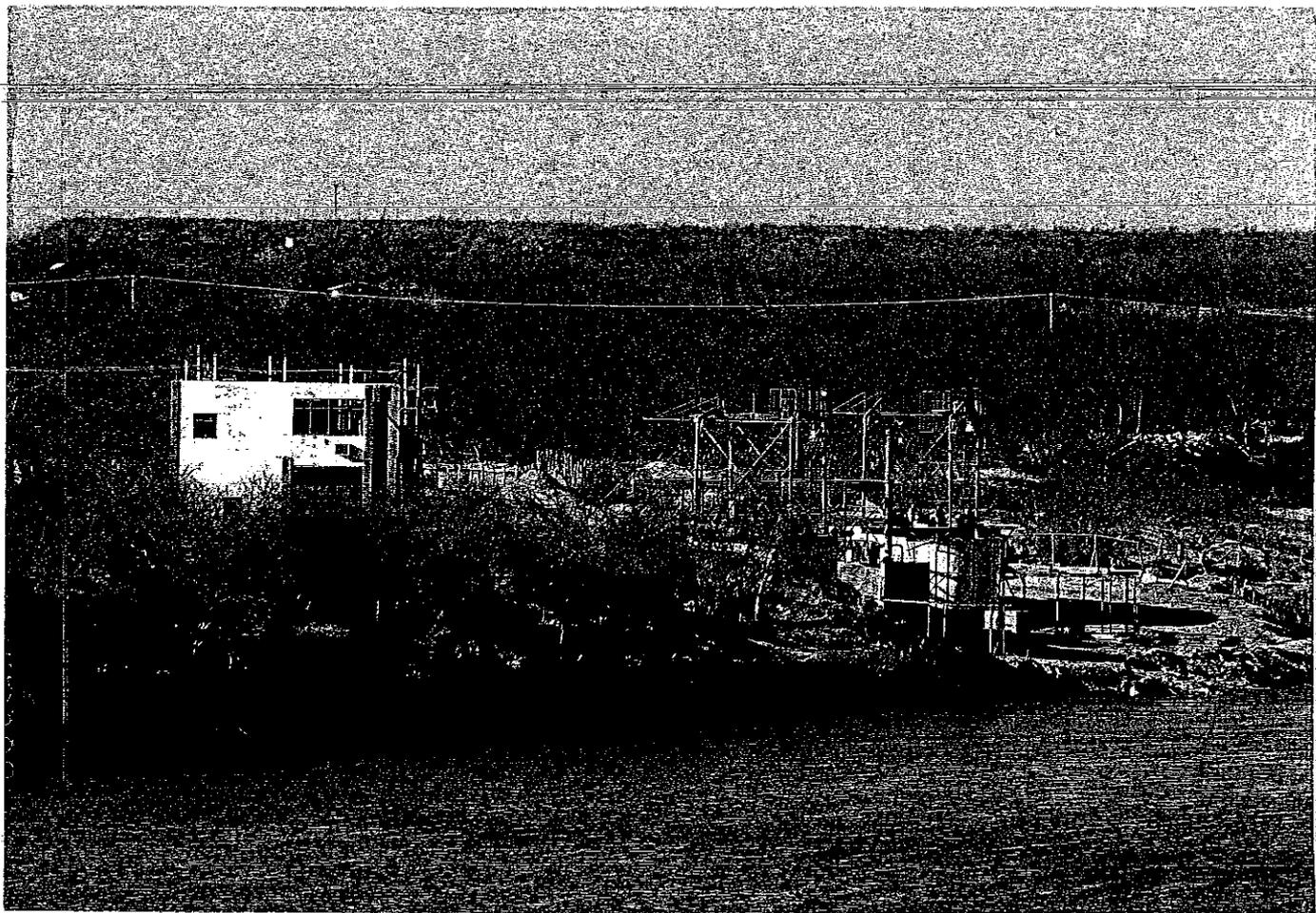
I REQUEST A CONTESTED CASE HEARING

Please give this form to the person at the information table. Thank you.

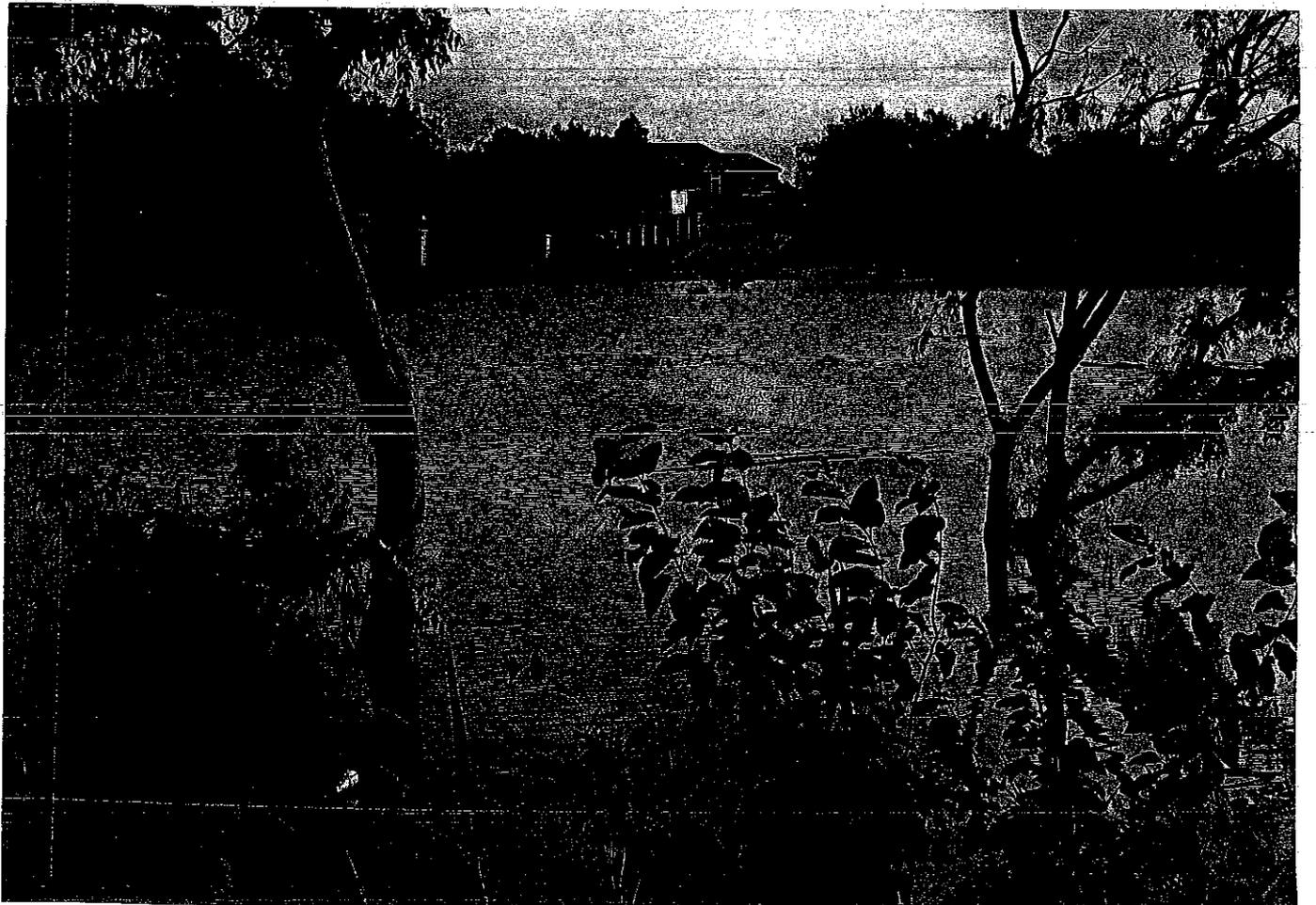
Handwritten signature/initials











*IWD  
72370*

# LEGAL DEPARTMENT

August 31, 2011  
Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
VIA Facsimile: (512)239-3311

*H  
RFR* OPA  
AUG 31 2011  
BY *CP*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 31 PM 3:54  
CHIEF CLERKS OFFICE

CLORIA E.  
HERNANDEZ  
General Counsel

ROBERTO L.  
RODRIGUEZ  
Associate General  
Counsel

CARLOS PATINO  
Paralegal

HECTOR  
GONZALEZ  
Paralegal

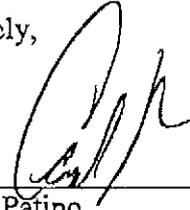
Re: Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000

Dear Ms Chao:

Attached you will find the Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000. Please file among this file's documents in the usual manner.

Please do not hesitate to call me should there be any concern regarding this filing.

Sincerely,



Carlos Patino  
Paralegal  
Kickapoo Traditional Tribe of Texas

MARTILA  
MARTINEZ  
Legal Assistant

## KICKAPOO TRADITIONAL TRIBE OF TEXAS

*CP*  
*mm*

**KICKAPOO TRADITIONAL TRIBE OF TEXAS' AND CITY OF EAGLE PASS'  
REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO  
RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST  
1, 2011 RE: APPLICATION AND PRELIMINARY DECISION FOR WATER  
QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER, TPDES  
PERMIT NO. WQ0003511000**

We, the Kickapoo Traditional Tribe of Texas ("Tribe") and the City of Eagle Pass, Texas, request a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000 and file this **MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011.**

The City of Eagle Pass has previously submitted contact information. In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** DOS REPUBLICAS COAL PARTNERSHIP ("Dos Republicas")  
**PERMIT #:** TPDES # WQ0003511000

**STANDING TO PARTICIPATE IN CONTESTED HEARING:** Pursuant to Section 12.209(a) of the Tex. Adm. Code – Section 16, Part I, Chapter 12, Subchapter G, Division 11, both the Kickapoo Traditional Tribe of Texas and the City of Eagle Pass are governmental entities entitled to participate in this matter. That provision provides that:

"Any person whose interests are or may be adversely affected or an officer or head of any federal, state, or local governmental agency or authority shall have the right to file written objections to an initial or revised application for permit with the Commission...."

The Kickapoo Tribe qualifies as having standing to participate as both a group that is adversely affected and as a governmental body. The Tribe's representative rights have been conferred upon it by virtue of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), Public Law 97-429 and the Constitution of the Kickapoo Traditional Tribe of Texas.

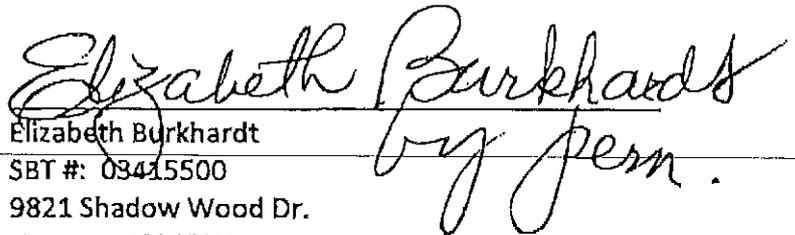
**LOCATION AND DISTANCE OF YOUR PROPERTY/ACTIVITIES RELATIVE TO THE FACILITY:** The proposed mine is located within the City of Eagle Pass, Texas. The reservation of the Tribe is located approximately 12 miles from the Applicant's facility. However, the Tribe rents agricultural lands in the vicinity of the proposed mine and it's members live and work throughout Maverick County, Texas. The water that is consumed by the Tribal members is removed by the City of Eagle Pass 1-mile downstream the Rio Grande River from the exit point

CHIEF CLERK  
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 AUG 31 2011 3:44 PM

of Elm Creek into the Rio Grande. Dust from the vicinity of the proposed mining operation travels great distances in this region and is anticipated to reach the City of Eagle Pass in general and the Tribe's agricultural business interests and homes. The Tribe's reservations, businesses and homes are all located directly on the Rio Grande River, while the public at large is situated further away.

INDIVIDUAL TRIBAL MEMBER AFFECTED: Chairman, Mr. Juan Garza, Jr. Mr. Garza resides on the reservation of the Kickapoo Traditional Tribe of Texas. He believes that the quality of both the air he breaths and the water he drinks will be adversely affected by water discharge from the Dos Republicas mine into Elm Creek, which will then be directly carried to the reservation. Unlike the City of Eagle Pass, the reservation and tribal members' home are sited directly on the banks of the Rio Grande River. As Native Americas, tribal members enjoy a close relationship with their land and obtain their sustenance directly from crops grown on the reservation, which are irrigated by waters from the Rio Grande River downstream from the Applicant's mining facility.

Respectfully submitted,

  
Elizabeth Burkhardt

SBT #: 03415500  
9821 Shadow Wood Dr.  
Houston, TX 77080  
Phone: 832-922-2919  
Fax: 713-468-5932  
E-mail: [BurkhardtLaw@comcast.net](mailto:BurkhardtLaw@comcast.net)

**GROUNDS FOR RECONSIDERATION:** The Kickapoo Traditional Tribe of Texas has previously submitted public comment and questions regarding community concerns and widespread opposition to this permit. TCEQ has not obtained answers to such previously submitted questions and they are incorporated herein as if set out verbatim. The Tribe and City of Eagle Pass are deeply concerned by the granting of TPDES Permit No. WQ0003511000 and the TCEQ's failure to obtain answers to previously submitted questions. Some of the points that have not been addressed due to the TCEQ's failure to conduct a CONTESTED HEARING include:

1. POTENTIAL HARM IS NOT LIMITED TO THE AREA IMMEDIATELY SURROUNDING THE PROPOSED MINING OPERATIONS.

- 
- a. **ARID CONDITIONS CONSTITUTE SPECIAL HAZARD TO LARGER AREA.** Dos Republicas has submitted no air modeling to address the issue of harm to the waterways that will result from the high wind and arid conditions (with periodic flash floods). These conditions will disperse both coal and normal dust over large areas absent special efforts at dust abatement. Dos Republicas has not submitted for consideration a dust abatement plan. Nor has it supported a water usage plan to evidence how a dust abatement plan would work. Without these plans and the air model showing where the dust is likely to travel, the affected area has not been defined and no attempt has been made to determine the actual impact on public waterways and health by either Dos Republicas or TCEQ.
- b. **UNCOVERED TRAIN CARS.** Dos Republicas admitted in the June 15, 2011 public meeting before the Railroad Commission of Texas that it will be transporting hundreds of uncovered coal train cars through the area surrounding Elm Creek and the Rio Grande River for 20+ years through the heart of the City of Eagle Pass and across the Rio Grande River with open train cars. This means that the area which coal dust will be affected is basically throughout Maverick County. This will bring Dos Republicas' coal dust in close proximity with all waterways and the lands, businesses and schools which are owned and/or attended by Kickapoos and throughout the City of Eagle Pass in general.
- 
- c. **DISCHARGE INTO RIO GRANDE RIVER.** On information and belief, Dos Republicas' parent company will process the dirty coal obtained from the mine located in Eagle Pass in Mexico and burn it across the river from the Kickapoo Reservation. The products of processing will drain into the Rio Grande River which is on Kickapoo land and the by-products of burning in Mexico without the benefit of pollution controls will directly pollute the air and water of the Rio Grande River. The City of Eagle Pass will be likewise impacted.
2. **AUTOMATIC TERMINATION OF PERMITS.** The Texas Natural Resources Code contains a mandatory termination clause that provides "...a mining permit will expire within three years of its issuance if the permit holder has not begun 'surface coal mining' operations by that date." Tex. Nat. Res. Code Ann. § 134.072(a). In previous litigation, an opinion was issued in *Railroad Commission of Texas and Dos Republicas Resources Co., Inc. v. Theodosia Coppock, et al.*, 215 S.W.3d 559 (Tex. Civ. App. – Austin, 2007). Though the

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permit was originally granted on this facility in 1992, surface coal mining operations still have not begun and are not expected to proceed until 2013.

- a. **ADMISSION THAT NO "COAL MINING OPERATIONS" HAVE BEGUN.** Dos Republics publically admitted on June 15, 2011 at a meeting conducted by the Railroad Commission that the only activity that has taken place at the proposed mining site since the granting of the Railroad Commission permit in 1992 has been the building of a pond during 2005. Since that time, neither Dos Republicas nor its successor have undertaken any mining operations. This admission was made by Mr. Pete Nielson, President of Camino Real Fuels, LLC. In fact, Mr. Nielson estimated that no mining operations will begin prior to mid-2013. Dos Republicas made a slide presentation at the June 15, 2011 public meeting. A slide reflecting this schedule is attached as Exhibit "1" (the handwritten notes are not part of the original slide and are not being offered into evidence). Mr. Nielson testified that the first thing Dos Republicas must do to prepare for mining operations, prior to building any roads, rails or facilities, is to control water. He says the second thing that must be done before mining operations can commence is the creation of collector ditches, surrounding the active mining operations, including the building of sedimentation ponds. The third thing identified by Mr. Nielson that Dos Republicas must do before beginning mining operations is to build the rail loop, road to the shop, coal handling facilities, office, shop, haul road. Then he would hire workers for the coal mining operations. The fourth stage would be the beginning of mining operations, which he testified would begin in the late second quarter of 2013. A slide summarizing that plan of action was shown to the public. See Exhibit "1". None of these actions have taken place.
- b. **TCEQ ACTION ON THIS APPLICATION IS PREMATURE/RAILROAD COMMISSION HAS GRANTED A CONTESTED HEARING.** The permit on the facility should have automatically terminated pursuant to the early termination provisions of the Texas Natural Resources Code. The Railroad Commission of Texas has granted a CONTESTED HEARING on whether the permit should issue. The TCEQ should do the same since a permit for discharge without a permit to operate would be inappropriate.

PRAYER. The TCEQ has all the justification it needs to deny the extension of the requested waste water and storm water permit on the basis of the early termination provision in the Texas Natural Resources Code. At a minimum, the TCEQ should provide evidence regarding the dust abatement plan, water usage plan and air and water modeling to demonstrate the level of hazard proposed by the site. The Kickapoo Traditional Tribe of Texas and the City of Eagle Pass should be afforded the right to conduct discovery to analysis Dos Republicas evidence, cross-examine Dos Republicas witnesses and present witnesses of its own. By not affording a CONTESTED HEARING, this right has been denied by the TCEQ. Therefore, the Kickapoo Traditional Tribe of Texas requests that a CONTESTED HEARING be granted and the TCEQ RECONSIDER its previous ruling of August 1, 2011.

Respectfully submitted,

*Elizabeth Burkhardt*  
Elizabeth Burkhardt  
TBA#: 03415500  
9821 Shadow Wood Dr.  
Houston, TX 77080  
Phone: 832-922-2919  
Fax: 713-468-5932  
E-mail: [burkhardtflaw@comcast.net](mailto:burkhardtflaw@comcast.net)

*Eddie Morales*  
Eddie Morales  
City Attorney, City of Eagle Pass, Texas  
Signed by permission

**TRADITIONAL  
COUNCIL**

**CHAIRMAN**  
Juan Garza, Jr., Kisisika

**SECRETARY**  
Jesus Anico, Chakodata

**TREASURER**  
Rogelio Elizondo, Apichicua

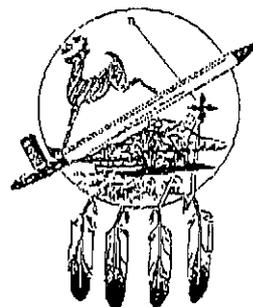
**MEMBERS**  
David J. Gonzalez, Kikekidenh  
Nannte Hernandez, Nannten

**KICKAPOO**

**TRADITIONAL  
TRIBE OF TEXAS**

HCR 1 Box 9700  
Eagle Pass, Texas 78852

LEGAL DEPARTMENT



*Traditional  
Council*

**FACSIMILE TRANSMISSION**

DATE: August 31, 2011  
RE:  
PAGES: 1 of 7

Melissa Chao, Acting Chief Clerk	(512) 239-3311	CHIEF CLERK'S OFFICE AUG 31 PM 3:54 TEXAS DEPARTMENT OF ENVIRONMENTAL QUALITY

**MESSAGE:**

**KICKAPOO TRADITIONAL TRIBE OF TEXAS'**  
**REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF**  
**THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011 RE: APPLICATION AND**  
**PRELIMINARY DECISION FOR WATERQUALITY TPDES PERMIT RENEWAL FOR**  
**INDUSTRIAL WASTEWATER, TPDES PERMIT NO. WQ0003511000**

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**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/25/2011 10:17 AM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2  
**Attachments:** TCEQ Questions4.doc

HR

>>> PUBCOMMENT-OCC 1/24/2011 2:51 PM >>>

*IWD*  
*72370*

>>> <[Burkhardtlaw@comcast.net](mailto:Burkhardtlaw@comcast.net)> 1/24/2011 1:39 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP

**RN NUMBER:** RN101529493

**PERMIT NUMBER:** WQ0003511000

**DOCKET NUMBER:**

**COUNTY:** MAVERICK

**PRINCIPAL NAME:**

**CN NUMBER:**

**FROM**

**NAME:** Elizabeth Burkhardt

**E-MAIL:** [Burkhardtlaw@comcast.net](mailto:Burkhardtlaw@comcast.net)

**COMPANY:** representing the Kickapoo Traditional Tribe of Texas

**ADDRESS:** 9821. SHADOW WOOD DR

HOUSTON TX 77080-7107

**PHONE:** 8329222919

**FAX:** 7134685932

**COMMENTS:** Attached please find a document containing our comments. Thank you for your consideration.

*mw*

**KICKAPOO TRADITIONAL TRIBE OF TEXAS'**  
**REQUEST FOR A CONTESTED CASE HEARING**  
**RE: APPLICATION AND PRELIMINARY DECISION FOR WATER**  
**QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER,**  
**TPDES PERMIT NO. WQ0003511000**

We, the Kickapoo Traditional Tribe of Texas ("Tribe"), by and through our Attorneys, Elizabeth Burkhardt, 9821 Shadow Wood Dr., Houston, TX 77080, Phone: 832-922-2919, Fax: 713-468-5932, e-mail: [Burkhardtlaw@comcast.net](mailto:Burkhardtlaw@comcast.net) and Gloria Hernandez, General Counsel, Kickapoo Traditional Tribe of Texas, Legal Department, HCR 1, Box 9700, Eagle Pass, TX 78852, Phone: 830-758-8024, Fax: 830-758-8008, E-mail: [gehatty@gmail.com](mailto:gehatty@gmail.com), a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000. The Tribe designates Elizabeth Burkhardt, our attorney, to receive future correspondence.

In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** DOS REPUBLICAS COAL PARTNERSHIP ("Dos Republicas")

**PERMIT #:** TPDES # WQ0003511000

**LOCATION AND DISTANCE OF YOUR PROPERTY/ACTIVITIES RELATIVE TO THE FACILITY:** The reservation of the Tribe is located at HCR 1, Box 9700, Eagle Pass, TX 78852, which is approximately 12 miles from the Applicant's facility. However, the Tribe's members live and work throughout Maverick County, Texas. The water that is consumed by the Tribal members is removed by the City of Eagle Pass 1-mile downstream the Rio Grande River from the exit point of Elm Creek into the Rio Grande. ~~Dust from the vicinity of the proposed mining operation travels great distances in this region and is anticipated to reach the Tribe's agricultural business interests and homes. The Tribe's Reservation, businesses and homes are all located directly on the Rio Grande River, while the public at large is situated further away. The Tribe is directly across the Rio Grande River from the power plants that will be burning the Dos Republicas' dirty coal without the benefit of pollution controls.~~

**INDIVIDUAL TRIBAL MEMBER AFFECTED:** Chairman, Mr. Juan Garza, Jr. Mr. Garza resides on the Reservation of the Kickapoo Traditional Tribe of Texas. He believes that the quality of both

~~the air he breathes and the water he drinks will be adversely affected by water discharge from~~  
the Dos Republicas mine into Elm Creek, which will then be directly carried to the Reservation. Unlike the City of Eagle Pass, the Reservation and tribal members' home are sited directly on the banks of the Rio Grande River. As Native Americans, tribal members enjoy a close relationship with their land and obtain their sustenance directly from crops grown on the Reservation, which are irrigated by waters from the Rio Grande River downstream from the Applicant's mining facility.

Respectfully submitted,

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Elizabeth Burkhardt  
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Houston, TX 77080  
Phone: 832-922-2919  
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Gloria E. Hernandez  
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Legal Department  
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Fax: 830-758-8008  
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PUBLIC COMMENT: The Kickapoo Traditional Tribe of Texas is deeply concerned by the proposed granting of TPDES Permit No. WQ0003511000. The shareholders of the mining facility are Mexican Nationals, with minimal assets in the U.S., excepting the facility itself. They lack any track record of running a facility in the U.S. in an environmentally and financially

responsible manner.

The coal Dos Republicas will produce is unsuitable for usage in the U.S. due to its high iron, sulfur, silica and selenium content. Therefore, it will be shipped to Piedras Negras (a city on the other side of the Rio Grande River from Eagle Pass), where it will be burned without the benefit of first being processed to decrease its undesirable and polluting components. The likelihood of the products of combustion being scrubbed by high cost pollution control technology is remote; therefore, the citizens of Eagle Pass and the Kickapoo Traditional Tribe of Texas will be exposed not just to the pollution generated by the mine, they will also be exposed to dangerous products of the coals combustion that would not be permitted in the U.S.

The coal in the areas surrounding Eagle Pass is particularly dirty. Its high sulfur and iron content creates a high and unacceptable risk of acid water discharge and ponding of hazardous sulfuric acid and metals. In Eagle Pass, it doesn't rain, it pours. Due to the regular flooding to which our community is prone, the strip mined portion of the site will fill with water and overflow into Elm Creek.

Additionally, the arid conditions will make dust abatement difficult and ineffective without a substantial commitment to best achievable technology for dust abatement. It is anticipated that coal dust will travel substantial distances and cover a significant portion of the community.

Due to the remoteness of Eagle Pass, the Tribe believes that appropriate monitoring and sampling of air and water will not be timely made. The closest environmental response companies are located hours away in Laredo and San Antonio.

Coal mining is hazardous to the environment and people. Coal dust causes tumors, pneumoconiosis, bronchitis and emphysema, general lung damage, rubbery black tissue that often adheres to the chest wall, decreases in breathing capacity, pulmonary hypertension, and premature death. Silica contained in Eagle Pass' coal can also cause silicosis. The sulfur in the coal dust causes acid rain and kills vegetation.

The Tribe does not understand why the TCEQ grants permit extensions to a facility that was originally granted permission to operate in 1995 yet has not begun operations in 2011. Under the mandatory rules of the Texas Natural Resources Code, no extension should be granted to a facility that has failed to begin operations within 3 years. The TCEQ has all the justification it needs to deny the extension of the requested waste water and storm water permit on this

basis-alone.

The Kickapoo Traditional Tribe of Texas urges the Texas Commission on Environmental Quality to protect the people of the Kickapoo Nation and the citizens of the United States against the unreasonable pollution and health risks associated with the Dos Republicas facility. The TCEQ should conduct a full investigation and then deny the application. It is more important for the TCEQ to put our citizens' health and environment ahead of the Mexican owners' of the mine right to make money off of dirty coal. Additionally, the Mexican power plant should not have the right to burn that coal without implementing necessary environmental safeguards when their pollution will impact Americans' health.

The Tribe submits the following questions and Requests for Documents that it respectfully requests that the TCEQ pursue on its behalf.

1. **MANDATORY EARLY TERMINATION OF PERMIT.** The Texas natural resources code contains an early termination provision mandating that a mining permit will expire within three years of its issuance if the permit holder has not begun "surface coal mining" operations by that date. Tex. Nat. Res.Code Ann. § 134.072(a). It is the Kickapoo Traditional Tribe of Texas' ("Kickapoos" or "Tribe") position that this early termination provision reflects the legislative intent that all coal operation permits, including any storm water and mine seepage permits (such as the one that is the subject of TCEQ's Notice of Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater TPDES Permit No. WQ00035111000) are subject to the same mandatory early termination requirements (or lack of renewal in this instance).
  - a. What justification or excuse has Dos Republicas provided to the TCEQ for its failure to begin operations more than four (4) years after the Texas Court of Appeals decision that extended Dos Republicas coal mining permit due to "the lack of a market for Dos Republicas to sell its coal..."? *Railroad Commission of Texas and Dos Republicas Resources Co., Inc. v. Theodosia Coppock Juanita Alvarado, Guadalupe Davila and the Kickapoo Traditional Tribe of Texas, No. 03-05-00097-CV.*
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and belief, the Tribe contends that Dos Republicas' lack of a ready market indicates that it has **Dirty Coal** (it contains excessive amounts of sulfur (acid), iron (ferruginous), selenium, high ash, silica, etc.) that is unsuitable for use in the United States absent cost prohibitive processing to clean up the coal. Department of Interior Bulletin of the United States Geological Survey, No. 164 (1990) at p. 61-2. The Tribe does not believe that the fact that Dos Republicas' product does not meet environmental protection standards should serve as an excuse that would justify granting an extension on a permit. Therefore, the Tribe requests for usage at the contested case hearing:

- i. Detailed information regarding the composition of the coal, including but not limited to: iron, sulfur, cyanide, silica, selenium, etc. content. Also, is it more or less than 5 % silica?
- ii. Any and all correspondence to or from Dos Republicas that indicate why its product has been rejected by any potential buyer in the U.S.
- iii. Any and all sales contracts and specifications possessed by Dos Republicas for the coal to be mined in Eagle Pass.

2. **MEXICO BENEFITS, U.S. IS HARMED, BY THIS MINE SITE.** On December 2, 1996, an opinion was issued in connection with the NPDES Permit of Dos Republicas related to the Eagle Pass site. In the "Factual Background" portion of that opinion, the court represents that "[t]he mine would supply coal, by rail, to a power plant about 20 miles away in Mexico." The opinion continues to state that Dos Republicas "...proposes to relocate Elm Creek during mining operations in order to recover that coal, which coal [Dos Republicas] expects will be needed in order to bring the average quality of the coal being mined up to the standards required by [Dos Republicas'] contract with the [Mexican] power plant." *In Re Dos Republicas Resources Co., Inc.*, NPDES Appeal No. 96-1 at p. 651.

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- b. Where is the coal to be sent for processing (clean up) prior to delivery to the customers?
- c. Where are Dos Republicas' customers' coal burning facilities located and how close are they to the U.S.?
- d. What emission controls do the customers' plants have? Are they consistent with best achievable technology standards used in the U.S.?
- e. What emission limitations exist in Mexico for coal dust and products of coal combustion? What is Mexico's record of enforcement of such standards?
- f. What assurances do the people of Eagle Pass have that the pollution generated by Dos Republicas customers' will not wind-up in Eagle Pass given its close proximity to Piedras Negras?
- g. Were any of the shareholders of Dos Republicas involved with the unsuccessful attempt to open a similar coal mining facility in the Piedras Negras area during the mid-1980s under the name, Tajo Norte? The out-cry of the Mexican citizens was so adverse that permission to operate was denied.

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3. **ADDITIONAL PERMITTING PLANS.** Does Dos Republicas intend to apply for additional permits for any agencies?

- a. If "yes", which ones, why and when?

- b. Has Dos Republicas applied to the Corps of Engineers for a permit to fill and relocate Elm Creek? The Tribe requests copies of all applications for permits made by Dos Republicas.

4. **WATER BUDGET INFORMATION/DUST AND NOISE ABATEMENT.** Dos Republicas has indicated that it will have negligible output of water to Elm Creek.

- a. Has Dos Republicas produced a detailed "Water Budget" to TCEQ to aid it in determining the impact of this facility on the surrounding environment?
  - b. Surface coal miners use water for cooling cutting surfaces, suppressing dust on haul roads, equipment maintenance and personal sanitary needs. According to the U.S. Department of Energy in its publication "Water Use in Industries of the Future: Mining Industry", dust control alone involves 5.2 gallons of water per ton of coal produced. Is this a negligible amount?
  - c. Who has Dos Republicas contracted with to supply water? For how much have they contracted?
  - d. Will Dos Republicas also drill for water or create reservoirs? What will be the capacity of these ponds?
- 
- e. How will water in these storage ponds be treated and disposed?
  - f. What environmental response company has Dos Republicas hired to do the required flood sampling and other sampling of storm, waste and seepage waters? How far away are they located? What is the average anticipated response time?

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Will it be within 30 minutes of the onset of the flood event (see 30 minute sampling requirement set out on p. 1-3 of EPA, Form 2F NPDES Application for Permit to Discharge Storm Water Discharges Associated with Industrial Activity, Instructions re Sampling)?

- g. How many tons of coal has Dos Republicas represented it will produce over what period of time?
- h. How deep will the mining extend? What has been done to determine the propensity of the carved out areas to hold storm water? How many gallons?
- i. Due to the facility's proximity to the Rio Grande, what has been determined about the location of the water table in this area? How has TCEQ verified the information provided by Dos Republicas?
- j. Has Dos Republicas filed a fire plan with the Fire Marshall? Will it be using explosives in its operations?
- k. What noise abatement plans does it have?
- l. What dust abatement plans does Dos Republicas have for this site?

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5. **ANALYSIS OF HARM/REMEDATION COSTS.** What methodology has the TCEQ used to determine the potential for environmental contamination by this Dirty Coal mine?

- a. Is there a report that the Tribe's experts can review that sets out the TCEQ's

analysis?

- b. What has the TCEQ determined the anticipated clean up costs to be when the mine is remediated and reclaimed?
- c. How were those cost numbers developed?
- d. How was the clean up bond dollar amount established?
- e. Has the TCEQ considered in setting the bond that Dos Republicas is owned by Mexicans, who have no real presence in the U.S. with the exception of this mine (is the mine lands owed or leased)? Is the TCEQ aware that its office in San Antonio is only rented? Is TCEQ aware of the allegations that the principals of Dos Republicas are less than stable? In the Eagle Pass Business Journal dated August 21, 2008, facts were reported that create concerns about whether Dos Republicas will be fiscally, environmentally and legal responsible to the community. An excerpt of the article is quoted below. Has TCEQ investigated these allegations?

“The star witness of the hearing was Mexican attorney Andres Gonzalez Saravia Coss of Mexico City, who is general counsel to Mexican corporation Grupo Acerero del Norte, S.A. de C.V. (GAN), who testified that DRCP is a partnership between two American corporations named Eagle Pass Coal Corporation (EPCC) and Maverick County Coal Corporation (MCCC), each owns 50% of DRCP.

“DRCP seeks to transfer all the rights and obligations of DRRC as to Permit No. 42. Gonzalez testified that both EPCC and MCCC are 100% owned by a Mexican corporation named Electrica Puerto Penasco, S.A. de C.V. Gonzalez added Electrica Puerto Penasco, S.A. de C. V. is a wholly-owned (99.999%) subsidiary of another Mexican corporation named Minerales Monclova, S.A. de C.V. Gonzalez further testified that Minerales Monclova, S.A. de C.V. is a wholly owned subsidiary (95.9582%) of another Mexican corporation named Altos Hornos de Mexico S.A.B. de C.V. (AHMSA). Gonzalez added that A H M S A i s owned by another Mexican corporation named Grupo Acerero del Norte, S.A. de C.V. (GAN) which owns 76.11 % , another 19.89% are publicly traded shares, and several company directors own 4%.

“Gonzalez also testified that Grupo Acerero del Norte, S.A. de C.V. (GAN) is

owned by Xavier Autrey Maza who owns 45.0%, Alonso Ancira Elizondo who owns 14.82%, Manuel Ancira Elizondo who owns 12.05%, Carlyle Technologies Corp., an investment group, which owns 10.0%, and other individuals who each own less than 10% but not more than 18.13% of GAN.

“Gonzalez testified that the ownership and control of Dos Republicas Coal Partnership was foreign owned, primarily by Mexican citizens and/or Mexican corporations.

“Gonzalez testified that DRCP was going to hire North American Coal, an American Coal company and operator, to operate the Eagle Pass Mine Permit No. 42. On cross-examination from local ranchers and housewives, Rosa O’Donnell, and Layde Herring, Gonzalez testified that both EPCC and MCCC were incorporated less than a year ago to form DRCP and have no prior mining permits in Texas or the United States. Gonzalez testified upon further questioning from O’Donnell that Grupo Acerero del Norte, S.A. de C.V. and Altos Hornos de Mexico S.A.B. de C.V. have experienced financial problems and are in “debtor-in-possession” proceedings in Mexico since 1999, somewhat similar to a Chapter 11 in the United States, and are still going through a restructuring and they are now known as AHMSA/GAN.

“Upon further questioning from O’Donnell, Gonzalez testified that some of the AHMSA/GAN shareholders or directors had had charges filed by the Mexican government for non-payment of business or corporate taxes, causing one shareholder to flee to Spain, but that the company had paid its taxes and the Mexican government had dismissed all the charges against the company shareholders or directors.”

- f. What steps has the TCEQ taken to make sure that Dos Republicas does not just walk away from the mine when it has recovered most of the coal rather than fully restoring the area?

## 6. ADVERSE HEALTH EFFECTS.

- a. Has the TCEQ considered the studies -- funded by grants from the NIH, the results of which were published in recent peer reviewed articles by Dr. Michael Hendryx, Ph.D. -- which point to increased illnesses and premature deaths among Appalachian residents living near coal-mining operations and which questions whether the costs of those health impacts are greater than the industry’s economic benefits to the region? Certainly such potential harm would greatly outweigh the benefits when those of us in the U.S. do not even get the benefit of the energy

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generated.

- b. Has the TCEQ in its analysis considered the recommendations of the Obama Administration that the PEL for coal dust be decreased from 2 mg/cubic meter to 1 mg/cubic meter? Is the TCEQ aware that NIOSH stated in August, 2010 that “[e]ven at 1 mg/cubic meter coal mine dust exposure limit some occupational effect on ventilatory function is expected.”

Though this is not an exhaustive list of questions and concerns of the Tribe regarding the Dos Republicas mining facility, the Tribe prays that the issues raised are sufficient for the TCEQ to grant the requested CONTESTED CASE HEARING.

Done formal oral comments  
Submitted formal written comments (12)

# TCEQ Public Meeting Form 1P160102

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2011 JAN 31 PM 4:45  
CHIEF CLERKS OFFICE

PLEASE PRINT

Name: Elizabeth Burkhardt

Mailing Address: 9821 Shadow Wood Dr.

Physical Address (if different): \_\_\_\_\_

City/State: Houston, TX Zip: 77080

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: burkhardtlaw@comcast.net ✓

Phone Number: (832) 922-2919

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? Kickapoo Traditional Tribe of Texas

Please add me to the mailing list. ✓ Additional Comments:  
2 power plants in Mexico who will be burning the

I wish to provide formal ~~ORAL COMMENTS~~ at tonight's public meeting. coal dirty (can be scrubbed) are located directly across the Rio Grande from the Tribe's Reservation

I wish to provide formal WRITTEN COMMENTS at tonight's public meeting.  
(Written comments to be submitted at any time during the meeting)

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JAN 25 2011

**AT PUBLIC MEETING**  
Please give this form to the person at the information table. Thank you.

② The subsidiary of the "Operator", Lemino Real cannot tell us what assets it has & the owners of Dos Republicas are Mexicans living outside of the jurisdiction of U.S. Court

MW

Done formal oral comment

11

# TCEQ Public Meeting Form 1P160184

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

CHIEF CLERK'S OFFICE

2011 JAN 31 PM 4:45

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT

Name: Olivia Hernandez

Mailing Address: 490 Hillcrest

Physical Address (if different): Same

City/State: Eagle Pass, TX Zip: 78852

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: jehatty@gmail.com

Phone Number: (830) 987-5880

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Kickapoo Traditional Tribe of TX

Please add me to the mailing list. ✓

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Attached to Ms. Burkhardt's comments + registration sheet

Please give this form to the person at the information table. Thank you.

JAN 25 2011

2011 JAN 31 PM 4:45  
**KICKAPOO TRADITIONAL TRIBE OF TEXAS' AT PUBLIC MEETING**  
**CHIEF CLERKS REQUEST FOR A CONTESTED CASE HEARING**  
**RE: APPLICATION AND PRELIMINARY DECISION FOR WATER**  
**QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER, TPDES**  
**PERMIT NO. WQ0003511000**

We, the Kickapoo Traditional Tribe of Texas ("Tribe"), by and through our Attorneys, Elizabeth Burkhardt, 9821 Shadow Wood Dr., Houston, TX 77080, Phone: 832-922-2919, Fax: 713-468-5932, e-mail: [Burkhardtlaw@comcast.net](mailto:Burkhardtlaw@comcast.net) and Gloria Hernandez, General Counsel, Kickapoo Traditional Tribe of Texas, Legal Department, HCR 1, Box 9700, Eagle Pass, TX 78852, Phone: 830-758-8024, Fax: 830-758-8008, E-mail: [gehatty@gmail.com](mailto:gehatty@gmail.com), a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000. The Tribe designates Elizabeth Burkhardt, our attorney, to receive future correspondence.

In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** DOS REPUBLICAS COAL PARTNERSHIP ("Dos Republicas")

**PERMIT #:** TPDES # WQ0003511000

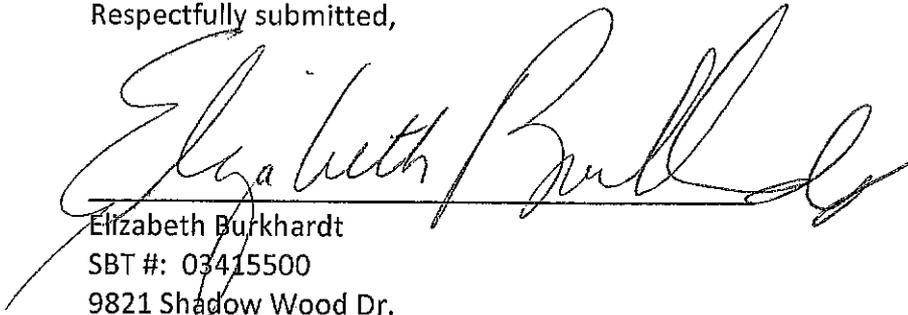
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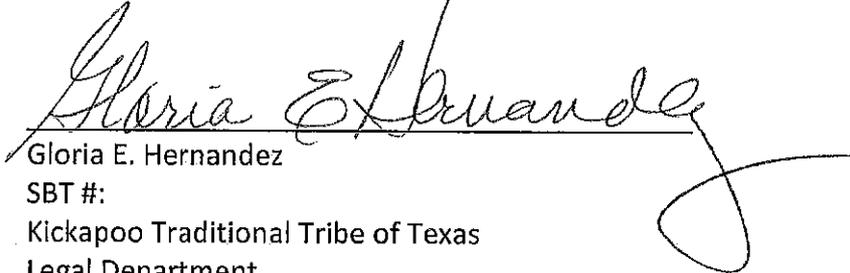
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JAN 25 2011

**AT PUBLIC MEETING**

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**AT PUBLIC MEETING**

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**AT PUBLIC MEETING**

- 
- f. What assurances do the people of Eagle Pass have that the pollution generated by Dos Republicas customers' will not wind-up in Eagle Pass given its close proximity to Piedras Negras?
- g. Were any of the shareholders of Dos Republicas involved with the unsuccessful attempt to open a similar coal mining facility in the Piedras Negras area during the mid-1980s under the name, Tajo Norte? The out-cry of the Mexican citizens was so adverse that permission to operate was denied.
3. **ADDITIONAL PERMITTING PLANS.** Does Dos Republicas intend to apply for additional permits for any agencies?
- a. If "yes", which ones, why and when?
- b. Has Dos Republicas applied to the Corps of Engineers for a permit to fill and relocate Elm Creek? The Tribe requests copies of all applications for permits made by Dos Republicas.
4. **WATER BUDGET INFORMATION/DUST AND NOISE ABATEMENT.** Dos Republicas has indicated that it will have negligible output of water to Elm Creek.
- a. Has Dos Republicas produced a detailed "Water Budget" to TCEQ to aid it in determining the impact of this facility on the surrounding environment?
- b. Surface coal miners use water for cooling cutting surfaces, suppressing dust on haul roads, equipment maintenance and personal sanitary needs. According to the U.S. Department of Energy in its publication "Water Use in Industries of the Future: Mining Industry", dust control alone involves 5.2 gallons of water per ton of coal produced. Is this a negligible amount?
- 
- c. Who has Dos Republicas contracted with to supply water? For how much have they contracted?
- d. Will Dos Republicas also drill for water or create reservoirs? What will be the capacity of these ponds?

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JAN 25 2011

**AT PUBLIC MEETING**

e. How will water in these storage ponds be treated and disposed?

---

f. What environmental response company has Dos Republicas hired to do the required flood sampling and other sampling of storm, waste and seepage waters? How far away are they located? What is the average anticipated response time? Will it be within 30 minutes of the onset of the flood event (see 30 minute sampling requirement set out on p. 1-3 of EPA, Form 2F NPDES Application for Permit to Discharge Storm Water Discharges Associated with Industrial Activity, Instructions re Sampling)?

g. How many tons of coal has Dos Republicas represented it will produce over what period of time?

h. How deep will the mining extend? What has been done to determine the propensity of the carved out areas to hold storm water? How many gallons?

i. Due to the facility's proximity to the Rio Grande, what has been determined about the location of the water table in this area? How has TCEQ verified the information provided by Dos Republicas?

j. Has Dos Republicas filed a fire plan with the Fire Marshall? Will it be using explosives in its operations?

k. What noise abatement plans does it have?

l. What dust abatement plans does Dos Republicas have for this site?

5. **ANALYSIS OF HARM/REMEDICATION COSTS.** What methodology has the TCEQ used to determine the potential for environmental contamination by this Dirty Coal mine?

---

a. Is there a report that the Tribe's experts can review that sets out the TCEQ's analysis?

b. What has the TCEQ determined the anticipated clean up costs to be when the mine is remediated and reclaimed?

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**AT PUBLIC MEETING**

c. How were those cost numbers developed?

d. How was the clean up bond dollar amount established?

e. Has the TCEQ considered in setting the bond that Dos Republicas is owned by Mexicans, who have no real presence in the U.S. with the exception of this mine (is the mine lands owed or leased)? Is the TCEQ aware that its office in San Antonio is only rented? Is TCEQ aware of the allegations that the principals of Dos Republicas are less than stable? In the Eagle Pass Business Journal dated August 21, 2008, facts were reported that create concerns about whether Dos Republicas will be fiscally, environmentally and legal responsible to the community. An excerpt of the article is quoted below. Has TCEQ investigated these allegations?

“The star witness of the hearing was Mexican attorney Andres Gonzalez Saravia Coss of Mexico City, who is general counsel to Mexican corporation Grupo Acerero del Norte, S.A. de C.V. (GAN), who testified that DRCP is a partnership between two American corporations named Eagle Pass Coal Corporation (EPCC) and Maverick County Coal Corporation (MCCC), each owns 50% of DRCP.

“DRCP seeks to transfer all the rights and obligations of DRRC as to Permit No. 42. Gonzalez testified that both EPCC and MCCC are 100% owned by a Mexican corporation named Electrica Puerto Penasco, S.A. de C.V. Gonzalez added Electrica Puerto Penasco, S.A. de C. V. is a wholly-owned (99.999%) subsidiary of another Mexican corporation named Minerales Monclova, S.A. de C.V. Gonzalez further testified that Minerales Monclova, S.A. de C.V. is a wholly owned subsidiary (95.9582%) of another Mexican corporation named Altos Hornos de Mexico S.A.B. de C.V. (AHMSA). Gonzalez added that A H M S A i s owned by another Mexican corporation named Grupo Acerero del Norte, S.A. de C.V. (GAN) which owns 76.11 % , another 19.89% are publicly traded shares, and several company directors own 4%.

“Gonzalez also testified that Grupo Acerero del Norte, S.A. de C.V. (GAN) is owned by Xavier Autrey Maza who owns 45.0%, Alonso Ancira Elizondo who owns 14.82%, Manuel Ancira Elizondo who owns 12.05%, Carlyle Technologies Corp., an investment group, which owns 10.0%, and other individuals who each own less than 10% but not more than 18.13% of GAN.

“Gonzalez testified that the ownership and control of Dos Republicas Coal Partnership was foreign owned, primarily by Mexican citizens and/or Mexican corporations.

“Gonzalez testified that DRCP was going to hire North American Coal, an American Coal company and operator, to operate the Eagle Pass Mine Permit No.

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JAN 25 2011

**AT PUBLIC MEETING**

42. On cross-examination from local ranchers and housewives, Rosa O'Donnell, and Layde Herring, Gonzalez testified that both EPCC and MCCC were incorporated less than a year ago to form DRCP and have no prior mining permits in Texas or the United States. Gonzalez testified upon further questioning from O'Donnell that Grupo Acerero del Norte, S.A. de C.V. and Altos Hornos de Mexico S.A.B. de C.V. have experienced financial problems and are in "debtor-in-possession" proceedings in Mexico since 1999, somewhat similar to a Chapter 11 in the United States, and are still going through a restructuring and they are now known as AHMSA/GAN.

"Upon further questioning from O'Donnell, Gonzalez testified that some of the AHMSA/GAN shareholders or directors had had charges filed by the Mexican government for non-payment of business or corporate taxes, causing one shareholder to flee to Spain, but that the company had paid its taxes and the Mexican government had dismissed all the charges against the company shareholders or directors."

- f. What steps has the TCEQ taken to make sure that Dos Republicas does not just walk away from the mine when it has recovered most of the coal rather than fully restoring the area?

#### 6. ADVERSE HEALTH EFFECTS.

- a. Has the TCEQ considered the studies -- funded by grants from the NIH, the results of which were published in recent peer reviewed articles by Dr. Michael Hendryx, Ph.D. -- which point to increased illnesses and premature deaths among Appalachian residents living near coal-mining operations and which questions whether the costs of those health impacts are greater than the industry's economic benefits to the region? Certainly such potential harm would greatly outweigh the benefits when those of us in the U.S. do not even get the benefit of the energy generated.
- b. Has the TCEQ in its analysis considered the recommendations of the Obama Administration that the PEL for coal dust be decreased from 2 mg/cubic meter to 1 mg/cubic meter? Is the TCEQ aware that NIOSH stated in August, 2010 that "[e]ven at 1 mg/cubic meter coal mine dust exposure limit some occupational effect on ventilatory function is expected."

Though this is not an exhaustive list of questions and concerns of the Tribe regarding the Dos Republicas mining facility, the Tribe prays that the issues raised are sufficient for the TCEQ to grant the requested CONTESTED CASE HEARING.

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9

JAN 25 2011

**AT PUBLIC MEETING**

**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/24/2011 2:11 PM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2

HR

>>> PUBCOMMENT-OCC 1/24/2011 1:45 PM >>>

>>> <jcastillon@gmail.com> 1/24/2011 12:41 PM >>>

*IWD  
72370*

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
**PRINCIPAL NAME:** DOS REPUBLICAS COAL PARTNERSHIP  
**CN NUMBER:** CN600787782  
**FROM**  
**NAME:** Jesus Castillon  
**E-MAIL:** jcastillon@gmail.com  
**COMPANY:**  
**ADDRESS:** 3131 MEMORIAL CT Apt. 304  
 HOUSTON TX 77007-6175  
**PHONE:** 7133014805  
**FAX:**

**COMMENTS:** Acting on behalf of my parents and immediate family members who continue to reside in the area, I request a contested case hearing to fully explore the adverse effects that this permit, if allowed to go forward, will have on the community and surrounding area.

*MWD*

**From:** PUBCOMMENT-ORA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/24/2011 2:10 PM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2

*IWD*  
*78370*

HR

>>> PUBCOMMENT-OCC 1/24/2011 1:44 PM >>>

>>> <[jcastillon@gmail.com](mailto:jcastillon@gmail.com)> 1/24/2011 12:35 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
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**NAME:** Jesus Castillon  
**E-MAIL:** [jcastillon@gmail.com](mailto:jcastillon@gmail.com)  
**COMPANY:**  
**ADDRESS:** 3131 MEMORIAL CT Apt. 304  
HOUSTON TX 77007-6175  
**PHONE:** 7133014805  
**FAX:**

**COMMENTS:** I hereby request a contested case hearing because if allowed to go forward this proposed permit will cause unrepairable harm to the community of Eagle Pass, Texas and Maverick County. Because my parents and immediate family members continue to reside and contribute to the economy and growth of Eagle Pass, and acting on their behalf, I do hereby request a contested case hearing to determine the adversely effect that the proximate of a plant on the Mexican side of the border and this plant will have on this community.

*CMW*

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>>> PUBCOMMENT-OCC 1/24/2011 1:45 PM >>>

*IWD*  
*72370*

>>> <jcastillon@gmail.com> 1/24/2011 12:45 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP

**RN NUMBER:** RN101529493

**PERMIT NUMBER:** WQ0003511000

**DOCKET NUMBER:**

**COUNTY:** MAVERICK

**PRINCIPAL NAME:**

**CN NUMBER:**

**FROM**

**NAME:** Jesus Castillon

**E-MAIL:** jcastillon@gmail.com

**COMPANY:**

**ADDRESS:** 3131 MEMORIAL CT Apt. 304

HOUSTON TX 77007-6175

**PHONE:** 7133014805

**FAX:**

**COMMENTS:** Acting on behalf of my parents and immediate family members who continue to reside in the area, I request a contested case hearing to fully explore the adverse effects that this permit, if allowed to go forward, will have on the community and surrounding area. To date, there have been no environmental studies done to determine the long term effects of this disastrous proposal - it is long overdue that further study be continued and this permit denied.

*CMW*

**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/24/2011 2:10 PM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2

*FWD*  
*72370*

HR

>>> PUBCOMMENT-OCC 1/24/2011 1:44 PM >>>

>>> <jcastillon@gmail.com> 1/24/2011 12:36 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
**PRINCIPAL NAME:**  
**CN NUMBER:**  
**FROM**  
**NAME:** Jesus Castillon  
**E-MAIL:** jcastillon@gmail.com  
**COMPANY:**  
**ADDRESS:** 3131 MEMORIAL CT Apt. 304  
HOUSTON TX 77007-6175  
**PHONE:** 7133014805  
**FAX:**

**COMMENTS:** I hereby request a contested case hearing because if allowed to go forward this proposed permit will cause unrepairable harm to the community of Eagle Pass, Texas and Maverick County. Because my parents and immediate family members continue to reside and contribute to the economy and growth of Eagle Pass, and acting on their behalf, I do hereby request a contested case hearing to determine the adversely effect that the proximate of a plant on the Mexican side of the border and this plant will have on this community.

*mcw*



STATE SEARCH:  
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rules@tceq.state.tx.us

*FWD  
72370*

TCEQ Home  
Rules and Rulemaking

### eComments Form for Proposed Rulemakings

We encourage you to submit your comments concerning proposed rulemakings online. Your comments will be reviewed by the Texas Commission on Environmental Quality staff. For each proposed rulemaking, please note the deadline for receiving comments that is indicated on the Proposals page. Additional information can be found at the end of this page.

Please use the form below only to comment on rulemakings. For comments unrelated to rulemakings or questions, please contact the main switchboard number at 512/239-1000.

#### Your Personal Information

First Name\*:

Last Name\*:

Company/Organization Name\*:

E-mail Address\*:

Street Address\*:

City\*:

State\*:

Zip Code\*:

Phone Number:

Fax Number:

(\* Required information)

*H OPA  
JAN 24 2011  
BY [Signature]*

- RELATED LINKS:
- What's New In TCEQ Rules
- TCEQ Rules E-mail Updates
- Proposals
- Public Hearings for Proposed Rules
- TCEQ Rule Contacts

2011 JAN 24 PM 1:36  
CHIEF CLERKS OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*WAS unable to submit comments and request for hearing on permit WQ000351000  
[Signature]*

#### Your Comments

For which rulemaking would you like to provide comments?

Select One

(If the drop-down menu is blank, no rulemakings are currently open for comments. Check the Proposals page for comment period dates.)

Please type or copy and paste your comments below (do not leave blank, exceed 10,000 characters, or use HTML).

*[Handwritten initials]*

COMMENTS FOR : Dow Republicas Coal Partnership Permit number (TCEQ Permit No. W00009511000 with TCEQ and Permit No. 42N with Railroad Commission of Texas);

My family lives on Lehman Ranch Road approximately 5 miles North from the mining location in the permit application. My two children attend Pete Gallego Elementary school 2 miles within the mining location in the permit application. We live and have live stock in our home. We do not have city water and use well water so we currently have 2 filters from the well into our water tank and another filter from the tank into our home and a third filter in our home for drinking water. We fear this coal mine that would daily release chemicals into our air, land, and water would further cause problems in our lives as the chemicals they are releasing are known to be highly carcinogenic and lethal to humans, agricultural animals, wildlife, aquatic species, and plants. This mining would deteriorate our environment and the benefit they say it offers does no where near out way the damage it causes. Allowing them into our populated area would render our neighborhoods unfit to live in and our water unfit for agriculture, human consumption, bathing, or other household uses. Please consider my family and children's future when determining your decision. We need to consider alternative energy coal is a thing of the past.

Please accept this email as a request for a hearing.

1442 characters entered | 8558 characters remaining

Alternately, you may upload a Word or PDF document (less than 1 MB) with your comments below.

File:

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### Additional Information

The eComments form is limited to an amount of text equivalent to 10,000 characters, including spaces (approximately two and a half typed pages), and the upload form is limited to Word and PDF attachments that are less than 1 MB. If your comments will exceed this amount, please submit your comments using United States Mail, addressed to the specific contact person listed in the SUBMITTAL OF COMMENTS section of the preamble, and indicating the Rule Project Number, to the following address:

Texas Register Team - MC 205  
 General Law Division  
 Office of Legal Services  
 TCEQ  
 P.O. Box 13087  
 Austin, TX 78711-3087

You may also fax your comments to 512-299-4808 or use a courier or delivery service.

If you use this form to submit your comments, you will receive an e-mail confirmation of your remarks that can be printed for your records. If you do not receive an e-mailed confirmation, your remarks may not have been received. No confirmation will be returned for comments submitted by U.S. mail.

### Tips on Commenting Effectively

- Identify who you are and why the regulation affects you;
- Explain why you agree or disagree with the proposed rulemaking;
- Be direct in your comment; and
- Offer alternatives, compromise solutions, and specific language for your suggested changes.

Back to top

Received: 01/24/2011 13:37 FAX 512 239 4908  
01-24-'11 10:32 FROM-MCH. DMIN

TCEQ 8307574982

Jan 24 2011 01:29pm

004/004  
T-071 P0003/0003 F-131

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2011 JAN 24 PM 1:36

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We received this on our fax.  
I believe it belongs to you.  
I sent the person the correct link to submit  
Comments for permits instead of rules.  
Let me know if you have any questions or  
if you need the original.

Jarks

Charlotte Horn X8779

IP 100231

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal For Industrial Wastewater, No. WQ0003511000

PLEASE PRINT:

Name: Aureliano & Terri Contreras  
Address: Box 2 Box 211US Hwy 277 Lehman Ranch  
City/State: Eagle Pass TX Zip: 78852 Rd  
Phone: (800) 513-0814

Please add me to the mailing list. ✓

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.  
(Written comments may be submitted any time during the meeting)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2011 JAN 31 PM 4:50  
CHIEF CLERKS OFFICE

Please give this to the person at the information table. Thank you.

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JAN 25 2011

AT PUBLIC MEETING

Office of the Chief Clerk, MC 105

TCEQ

PO Box 13087

Austin, TX 78711-3087

January 24, 2011

SUBJECT: Dos Republicas Coal Partnership RN1015294; TCEQ Permit # WQ000351; CN607877

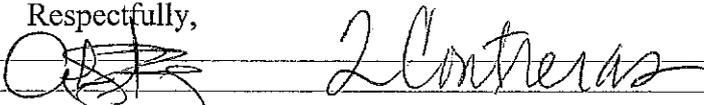
To whom it may concern:

I am submitting my comments to protest the approval of the permit for Dos Republicas Coal Partnership RN1015294; TCEQ Permit # WQ000351; CN607877.

My family lives on Lehman Ranch Road approximately 5 miles north from the mining location in the permit application. My 2 children attend Pete Gallego Elementary school 2 miles within the mining location in the permit application. We live and have invested in livestock on our home. We do not have city water and use well water so we currently have 2 filters from the well into our water tank and another filter from the tank into our home and a third filter in our home for drinking, bathing, and providing to our animals. We fear this coal mine that would daily release chemicals into our air, land and water would further cause problems in our lives as the chemicals they are releasing are known to be highly carcinogenic and lethal to humans, agricultural animals, wildlife, aquatic species, and plants. This mining would deteriorate our environment and the benefit they say it offers does not outweigh the damage it causes. Allowing them into our populated area would render our neighborhoods unfit to live in and our water unfit for agriculture, human consumption, bathing, or other household uses. Please consider my family and children's future when determining your decision. We need to consider alternative energy, coal mining is a thing of the past.

Should you have any questions please call us at (830) 513-0814 Thank you and we appreciate you help in helping us keep our environment/home clean.

Respectfully,



Aureliano and Terri Contreras

CHIEF CLERKS OFFICE

2011 JAN 31 PM 4:50

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*MW*

**From:** PUBCOMMENT:OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 1/25/2011 10:17 AM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2

IWD  
72370

>>> PUBCOMMENT-OCC 1/24/2011 3:36 PM >>>

>>> <t.contreras@mchdep.org> 1/24/2011 3:17 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
**PRINCIPAL NAME:** DOS REPUBLICAS COAL PARTNERSHIP  
**CN NUMBER:** CN600787782

**FROM**

**NAME:** Terri Contreras  
**E-MAIL:** [t.contreras@mchdep.org](mailto:t.contreras@mchdep.org)  
**COMPANY:**

**ADDRESS:** Rt 2 Box 211 US Hwy 277 Lehman Ranch Road  
Eagle Pass TX 78852

**PHONE:** 8305130814

**FAX:**

**COMMENTS:** SUBJECT: Dos Republicas Coal Partnership RN1015294; TCEQ Permit # WQ000351; CN607877 To whom it may concern: I am submitting my comments to protest the approval of the permit for Dos Republicas Coal Partnership RN1015294; TCEQ Permit # WQ000351; CN607877. My family lives on Lehman Ranch Road approximately 5 miles north from the mining location in the permit application. My 2 children attend Pete Gallego Elementary school 2 miles within the mining location in the permit application. We live and have invested in livestock I our home. We do not have city water and use well water so we currently have 2 filters from the well into our water tank and another filter from the tank into our home and a third filter in our home for drinking, bathing, and providing to our animals. We fear this coal mine that would daily release chemicals into our air, land and water would further cause problems in our lives as the chemicals they are releasing are known to be highly carcinogenic and lethal to humans, agricultural animals, wildlife, aquatic species, and plants. This mining would deteriorate our environment and the benefit they say it offers does not outweigh the damage it causes. Allowing them into our populated area would render our neighborhoods unfit to live in and our water unfit for agriculture, human consumption, bathing, or other household uses. Please consider my family and children's future when determining your decision. We need to consider alternative energy coal is a thing of the past. Should you have any questions please call us at (830) 513-0814 Thank you and we appreciate you help in helping us keep our environment/home clean.

MWD

Have formal or? Comment (9)  
Submitted written comments

# TCEQ Public Meeting Form | P 160183

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

PLEASE PRINT

Name: Tricia Cortez

Mailing Address: West End Washington St, P-11

Physical Address (if different): \_\_\_\_\_

City/State: Laredo, TX Zip: 78040

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: rgisc@laredo.edu ✓

Phone Number: (956) 721-5392

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? Rio Grande International Study Center  
Laredo, TX

Please add me to the mailing list. ✓

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

CHIEF CLERKS OFFICE

2011 JAN 31 PM 4:44

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Please give this form to the person at the information table. Thank you.

CMW

TCEQ  
Austin, TX

2011 JAN 31 PM 4:44  
CHIEF CLERKS OFFICE

1/25/2011

Re: Dos Republicas (Eagle Pass)  
Permit Renewal

OPA RECEIVED

JAN 25 2011

AT PUBLIC MEETING

Dear TCEQ Commissioners:

on behalf of Rio Grande Int'l Study Center

~~\_\_\_\_\_~~

I respectfully request party status and a contested hearing because of the interconnectedness of the watershed and potential impact to the river and public water supply downstream in Laredo, as a result of these mining operations.

We are especially concerned with naturally occurring chemicals that will be brought to the surface during the mining process, and ~~the~~ the <sup>potential</sup> ~~of~~ <sup>contamination</sup> ~~impact~~ <sup>and</sup> ~~of~~ a flood exceeding the <sup>a</sup> 10 year, 24 hour event.

(956) 721-5392 (o)  
rajisc@laredo.edu  
(956) 6965-144 (h)

Rio Grande Int'l Study Ctr.  
West End Washington St.  
Bldg P-11  
Laredo, TX 78040

Sincerely,  
Tricia Conty  
Asst. Exec. Director  
MCW

Gabriel De La Cerda  
Leticia De La Cerda  
307 County Rd 307  
Eagle Pass Texas , 78852  
(830) 757-0965  
(830) 968-5107

Melissa Chao, Acting Chief Clerk  
TCEQ, Mc-105  
P.O. Box 13087  
Austin, Texas 78711-3087

RE: Dos Republicas Coal Partnership  
Permit No. W20003511000

Dear Ms. Chao,

We are requesting that a contested case hearing be held for the proposed renewal of TPDES Permit #W20003511000 to Dos Republicas Coal Partnership. We are making this request for the following reasons. We were also granted party status in the proceedings involving Dos Republicas Coal Partnership before the Rail Road Commission.

Gabriel and Leticia De La Cerda would like the reader to understand that the time taken in writing these words are first and foremost on the behalf of a land which cannot speak for itself. We are wishing to show our opposition to a plan which WILL impact us, affect the environment, and pollute our land and water for hundreds of miles and perhaps decades into the future. We stand together as husband and wife as stewards of the 10 acres of land which we choose to grow old together in prosperity and harmony.

After much research and thought we formally would like to ask for the rejection of the Coal Mining proposal which would be put into place less than one mile from our home. We ask for this stoppage with many concerns in the forefront of our minds. In this letter we wish to address just one of these reasons however, the scientifically proven fact that strip mining will cause water pollution.

When we first purchased our plot of land, we were ecstatic with joy in knowing that Elm Creek would be on the boundary of our property. Our sons and grandchildren would have a place to fish, hunt and otherwise be boys and free to wander. We rejoiced after having built our home and being able to look out our back porch and see a thriving south west Texas wildlife free of worry. We have witnessed the Green Jay, Humming birds, woodpeckers, Kiskadee flycatchers, Red winged black birds, Painted buntings, turkeys, these are just a few of the many species of birds we enjoy watching throughout the seasons. We have also been witness to the endangered species the ocelot, mountain lions, and deer. Through out the seasons we have witnessed does giving birth to beautiful

A  
IWD  
72370  
OPA  
SEP 01 2011  
BY BP

CHIEF CLERKS OFFICE

SEP 01 11 AM 10:28

TEXAS  
COMMISSION ON ENVIRONMENTAL  
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Mc

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fawns and walking through our back yard and just yards away. We also consume the fish that we catch from Elm Creek this will also strongly affect us our children and grandchildren. This beautiful image stands to be shattered if the strip mine is to go into effect less than one mile away from this very back yard. May I also mention that the water used in our home will also be contaminated, even though we do not consume the water we use it for personal use , such as bathing, laundry, dish washing and brushing our teeth.

The company has claimed that it would use water to keep dust buildup to a minimum. This runoff will find its way into Elm Creek which in turn feeds into the Rio Grande. It has been documented in many other mining operations that run off causes first and foremost high PH level increases.

**pH — pH is a measure of the relative acidity of liquids. A pH of 7 is considered neutral. Liquid with a pH below 7 is acidic; liquid with a pH above 7 is alkaline. Each number on the pH scale represents a 10-fold increase or decrease in acidity. Thus, a pH of 3 describes a liquid that is 10 times as acidic as a liquid with a pH of 4.**

**The law requires that the pH of water released from a mine be between 6 and 9. Although the more common problem associated with mining operations is acid drainage (low pH), alkaline drainage (high pH) is less common but can also cause problems. Alkaline mine drainage or runoff is most common in the West, where alkaline overburden may be exposed to water during mining. Acid drainage is typically caused when pyrite (fool's gold) or marcasite in the overburden is exposed to air and water during the mining process. Rainwater mixes with the pyrite to form sulfuric acid which is washed into streams and ponds below the mine.**

---

**This sulfuric acid would be washed into Elm Creek which then feeds into the Rio Grande. If the water becomes to acidic it can cause a huge die off of fish, which in turn sterilizes the land of life. The water will be too dangerous for wildlife to drink. Wildlife which cannot migrate will die off as food supplies become scarce. Water, an already precious commodity in the southwest, will be at an even more stressed level. Municipalities such as Eagle Pass water works, which receive its drinking water from the Rio Grande, could be burdened by the new acid levels which will also effect metal equipment used to process drinking water and any metal structures in the water, bridges, tunnels, and boating equipment.**

**The net result of these possible water issues will be a loss of property value for our family, a loss of fisheries for our future, and a loss of health for us who live in such an ecosystem; Human and animal alike.**

**I understand the need for jobs and the need for energy. We feel that the long term costs of pursuing this energy policy will far out weigh the temporary gains made in employment and taxes. We will have to live here in a fouled landscape long after the profits of the mining company have been spent.**

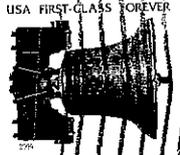
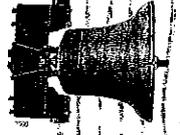
**Water is the cornerstone to all life. When scientists look for life on other planets, or the ability to sustain life, they look for water. Please do not destroy this cornerstone of everything we enjoy. We are a sturdy people in the heat of Southwest Texas. Please do not allow the mining company to move forward**

---

with its plans. I am certain that if you do, we will be forced to find other means to recreation and sources of this nature. The big picture is the most important, short term gain will cost us for decades to come. We will not leave our children this future. We will not leave the wildlife to be forgotten. I hope you will stand with us in our stewardship and one day perhaps join us from our back yard admiring all that we have protected.

---

Mr. & Mrs. Deke Cinda  
307 County Rd 307  
Eagle Pass TX 78852



Melissa Chao, Acting Chief Clerk

RECEIVED

SEP 01 2011

TCEQ MAIL CENTER

PO BOX 13087

Austin TX 78711-3087



Gabriel de la Cerda gave formal oral comment (14)

TCEQ Public Meeting Form 1P 159983

Tuesday, January 25, 2011

Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

PLEASE PRINT

Name: Gabriel & Leticia De la Cerda

Mailing Address: 307 County Rd 307 Thompson Del.

Physical Address (if different):

City/State: Eagle Pass TX Zip: 78852

\*\*This information is subject to public disclosure under the Texas Public Information Act\*\*

Email:

Phone Number: (830) 757-0965

- Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one?

Please add me to the mailing list.

I wish to provide formal ORAL COMMENTS at tonight's public meeting.

I wish to provide formal WRITTEN COMMENTS at tonight's public meeting. (Written comments may be submitted at any time during the meeting)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY 2011 JAN 31 PM 4:45 CHIEF CLERKS OFFICE

Please give this form to the person at the information table. Thank you.

Handwritten signature

Have formal oral comment ⑦

TCEQ Public Meeting Form

IP 160181

Tuesday, January 25, 2011

OPA RECEIVED

JAN 25 2011

Dos Republicas Coal Partnership  
Proposed Water Quality TPDES Permit Renewal  
For Industrial Wastewater, No. WQ0003511000 AT PUBLIC MEETING

PLEASE PRINT:

Name: Dr. Carlos E. de la Peña

Address: 6106 N. Hwy 297

City/State: Boyle Pass TX Zip: 78852

Phone: (830) 773-9019

Please add me to the mailing list. ✓

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted any time during the meeting)

I want to request a contestable hearing and be considered as party states.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2011 JAN 31 PM 4:44  
CHIEF CLERKS OFFICE

Please give this to the person at the information table. Thank you.

CM

H OPA  
AUG 31 2011  
BY [Signature]

Albert + Tera Ellis  
Rt 2 Box 172  
Eagle Pass, TX 78852  
830-773-5440

Melissa Chao, acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

LWD  
72370

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 31 PM 2:37  
CHIEF CLERK'S OFFICE

RE: Doe Republican Coal Partnership  
TPDES Permit No. WQ 0003511000

August 30, 2011

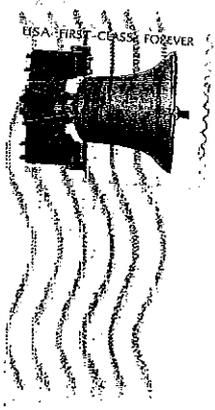
Dear Ms Chao,

We are going to be affected by the above permit because we live across the road from the permit area. We have party status before the Railroad Commission, and we are requesting a contested hearing in the above TPDES Permit and party status.

Our household and irrigation water come through Canal 20 which will be affected by coal dust and chemicals. We are also concerned for our health as we both have health problems.

Sincerely,  
Jim + Albert Ellis  
[Signature]

Albert & Teris Ellis  
Rt 2 Box 172  
Eagle Pass, TX 78852



SAN ANTONIO TX TX  
30 AUG 2011 PM 4:1

RECEIVED  
AUG 31 2011  
TCEQ MAIL CENTER

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austine, Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 AUG 31 PM 2:37  
CHIEF CLERKS OFFICE

78711308787

Albert + Tina Ellis  
Rt 2 Box 172  
Eagle Pass, TX 78852  
830-773-5440

LWD  
TCEQ  
72370

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 AUG 30 PM 2:54  
CHIEF CLERKS OFFICE

RE: Doe Republican Coal Partnership  
TPDES Permit No. WQ 0008511000

August 30, 2011 H- OPA  
AUG 31 2011  
BY hl

Dear Ms Chao,

We are going to be affected by the above permit because we live across the road from the permit area. We have party status before the Railroad Commission, and we are requesting a contested hearing in the above TPDES Permit and party status.

Our household and irrigation water come through Canal 20 which will be affected by coal dust and chemicals. We are also concerned for our health as we both have health problems.

Sincerely,  
Tina + Albert Ellis

MW

LAW OFFICES OF

TEXAS RIOGRANDE LEGAL AID, INC.

542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830)752-6400/Fax. (830) 773-5806

CHIEF CLERKS OFFICE

2011 AUG 30 PM 2:54

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

FACSIMILE COVER SHEET

TO: MELISSA CHAO, ACTING CHIEF CLERK, TCEQ  
FAX NUMBER: (512) 239-3311  
FROM: ALBERT and TINA ELLIS  
DATE: AUGUST 30, 2011  
RE: DAS REPUBLICAS COAL PARTNERSHIP, PERMIT NO. WQ0003511000  
NUMBER OF PAGES (including cover): 2

IF PROBLEMS WITH TRANSMISSION, PLEASE CALL (830) 773-6151

\*\*\*\*\*

HERE IS OUR REQUEST FOR A CONTESTED CASE  
HEARING. YOUR ATTENTION TO THIS MATTER IS  
APPRECIATED !

\*\*\*\*\*

NOTICE

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**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 9/1/2011 9:34 AM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2  
**Attachments:** 1.25.11 TCEQ Hearing Request.pdf

H

>>> PUBCOMMENT-OCC 8/31/2011 4:58 PM >>>

>>> <[sam@lf-lawfirm.com](mailto:sam@lf-lawfirm.com)> 8/31/2011 4:31 PM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
**PRINCIPAL NAME:** DOS REPUBLICAS COAL PARTNERSHIP  
**CN NUMBER:** CN600787782  
**FROM**  
**NAME:** Samuel C. Day-Woodruff  
**E-MAIL:** [sam@lf-lawfirm.com](mailto:sam@lf-lawfirm.com)  
**COMPANY:** Lowerre, Frederick, Perales, Allmon & Rockwell  
**ADDRESS:** 707 RIO GRANDE ST 200  
AUSTIN TX 78701-2719  
**PHONE:** 5124696000  
**FAX:** 5124829346

**COMMENTS:** Maverick County ("the County") is in receipt of the Executive Director's August 1, 2011, Response to Comments in the above referenced matter. The County reiterates its request for a contested case hearing, and incorporates its previous hearing request, filed January 25, 2011, as if fully set forth herein. This January 25, 2011 request for a contested case hearing is attached.

IWD  
72370

MW

LOWERRE, FREDERICK, PERALES,

ALLMON & ROCKWELL

ATTORNEYS AT LAW  
707 Rio Grande, Suite 200  
Austin, Texas 78701

(512) 469-6000 • (512) 482-9346 (facsimile)  
Mail@LF-LawFirm.com

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
(512) 239-3311 (fax)

January 25, 2011

via facsimile transmission  
and deposit in the U.S. mail

Regarding: Application of Dos Republicas Coal Partnership for renewal of TPDES permit number WQ0003511000.

Dear Ms. Castañuela:

My firm has been retained to represent Maverick County, Texas, regarding the permitting matter referenced above. Maverick County requests a contested case hearing on this matter. You may direct communications on these matters to me at the letterhead address.

The Maverick County Commissioners' Court passed a resolution at its most recent public meeting reciting the fact of its opposition to this permit and setting out a number of reasons for that opposition. A copy of the resolution accompanies this comment/hearing request. The facts set out in the resolution are relied upon in support of this comment/hearing request.

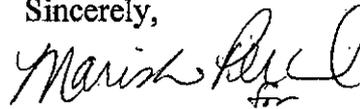
Maverick County owns parkland property on Elm Creek in close proximity to the site of the proposed Dos Republicas mine. Elm Creek is, in some instances, the immediate water body to which the discharges that would be authorized by this permit would be made and, in other instances, is the receiving water body for would-be discharges from unnamed tributaries that would be, themselves, the immediate receiving water bodies. Additionally, Maverick County is charged with safeguarding the health and welfare of Maverick County residents, and it exercises local enforcement authority<sup>1</sup> for TCEQ-issued permits. For these additional reasons, it is affected differently than are members of the public at large by the activities to be authorized by the Dos Republicas TPDES permit.

<sup>1</sup> Therefore, it has a particular interest in the practical enforceability of TCEQ-issued permits.

---

Maverick County relies on comments and issues raised by others, including those raised at or in conjunction with the January 25<sup>th</sup> public meeting being held in Eagle Pass, regarding this permit renewal. Additionally, Maverick County believes there is an issue with the adequacy of the fact sheet prepared the agency for this proposed permitting action. That fact sheet does not meet the standards of 40 CFR § 124.8, particularly as to the quantities (as opposed to concentrations) of wastes to be discharged. Additionally, Maverick County challenges Ms. Luxemburg's apparent conclusion (August 10, 2010) that the facility is not a "new source." The County also disputes your staff's determination that Elm Creek is not a perennial stream within 3 miles of a discharge point and the attendant analysis of water-quality-based effluent limitations and compliance of the would-be discharge with the State's Water Quality Standards.

Sincerely,



David Frederick

Xc: Hon. David Saucedo, County Judge  
Hon. Ricardo Ramos, County Attorney  
Hon. Jose Luis Rosales, Commissioner, Precinct 3

---

---

**RESOLUTION**

**A RESOLUTION OF MAVERICK COUNTY, TEXAS, OPPOSING DOS REPUBLICAS COAL PARTNERSHIP RENEWAL PERMIT #WQ0003511000 BEFORE THE TEXAS COMMISSION OF ENVIRONMENTAL QUALITY.**

**WHEREAS**, in July 2003, Dos Republicas Resources Co. entered into an investigation agreement with Coahuila Industrial Minera, S.A. De C.V. and Restructuradora Mexicana, S.A. De C.V.; and

**WHEREAS**, it has been stated in a deposition by Clark Moseley, a North American Coal Co. agent, that Coahuila's Industrial Minera, Grupo Acerero del Norte (GAN), and MICARE are all subsidiaries or affiliated in some way; and

**WHEREAS**, MICARE's work in the neighboring State of Coahuila has been condemned by the public and government for their disregard of underground water tables and lack of proper land reclamation; and

**WHEREAS**, discharge of chemically treated water and mine seepage from active mining areas into Elm Creek creates a serious risk of adverse impacts to Elm Creek and consequently to our drinking water resource, the Rio Grande River; and

**WHEREAS**, discharge of storm water and mine seepage creates a serious risk of polluting adjacent surrounding water wells within the area of the projected mine; and

**WHEREAS**, the mining operation may also affect the water supply of Eagle Pass, Piedras Negras, Coahuila, Mexico and other cities south of Eagle Pass, in both the United States and Mexico; and

**WHEREAS**, people who live in counties where coal is mined are much more likely to suffer from an array of chronic, life-threatening health problems, according to a study published in the April 2008 American Journal of Public Health; and

**WHEREAS**, the study found that these residents reported higher rates of cardiopulmonary disease, chronic obstructive pulmonary disease, hypertension, diabetes, lung and kidney disease; and

---

**WHEREAS**, there is a risk that the mine operations will create foundation problems and health hazards to children attending Pete Gallegos Elementary, Seco Mines Elementary and Texas Migrant Council Head-Start; and

**WHEREAS**, the thousands of Maverick County citizens in subdivisions such as Thompson Road, Deer Run, Elm Creek, Seco Mines, Siesta Acres, Hopedale Estates and many others living near mining operations will likely be exposed to and inhale dust from surface mining operations, coal preparation and cleaning plants, truck and train loading facilities; and

WHEREAS, heavy vehicular traffic and usage of heavy equipment is likely to cause a heavy toll on infrastructure destruction on the already strapped Maverick County finances.

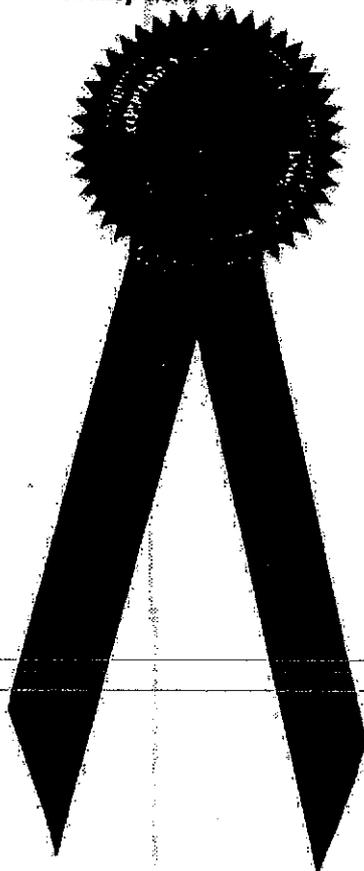
NOW, THEREFORE, BE IT RESOLVED that the Commissioners Court of Maverick County, Texas, oppose the Dos Republicas Coal Partnership Renewal Permit #WQ0003511000 before the Texas Commission of Environmental Quality.

READ, PASSED AND APPROVED THIS THE 20<sup>TH</sup> DAY OF JANUARY, 2011.

ATTEST:



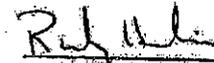
The Honorable Sara Montemayor  
County Clerk



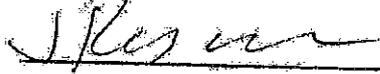
The Honorable David R. Saucedo  
County Judge



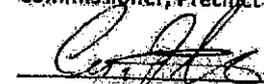
The Honorable Eliaz Maldonado  
Commissioner, Precinct 1



The Honorable Rudy Heredia  
Commissioner, Precinct 2



The Honorable José Luis Rosales  
Commissioner, Precinct 3



The Honorable César Flores  
Commissioner, Precinct 4

LOWERRE, FREDERICK, PERALES,

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

ALLMON & ROCKWELL

ATTORNEYS AT LAW  
707 Rio Grande, Suite 200  
Austin, Texas 78701

(512) 469-6000 • (512) 482-9346 (facsimile)  
Mail@LF-LawFirm.com

2011 JAN 27 AM 10:08

CHIEF CLERKS OFFICE

IWD  
72370

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
(512) 239-3311 (fax)

H OPA  
JAN 27 2011  
BY BP

January 25, 2011

via facsimile transmission  
and deposit in the U.S. mail

Regarding: Application of Dos Republicas Coal Partnership for renewal of TPDES permit number WQ0003511000.

Dear Ms. Castañuela:

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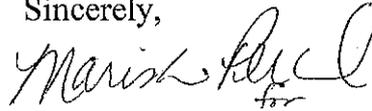
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Sincerely,



David Frederick

Xc: Hon. David Saucedo, County Judge  
Hon. Ricardo Ramos, County Attorney  
Hon. Jose Luis Rosales, Commissioner, Precinct 3

---

---

**RESOLUTION**

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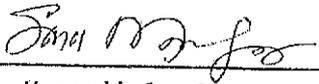
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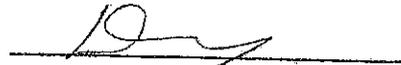
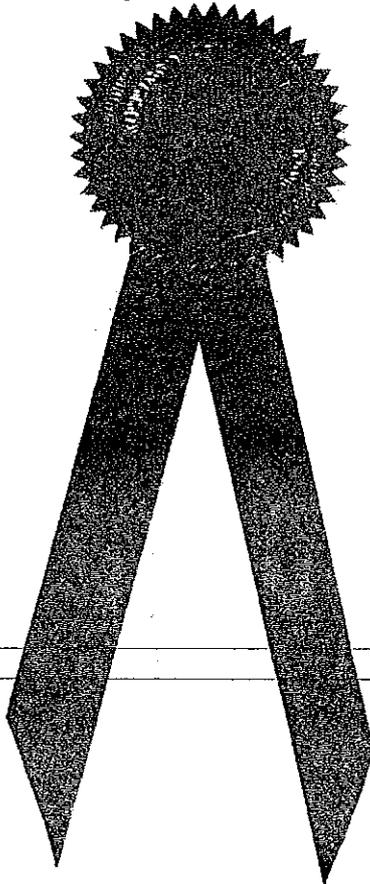
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READ, PASSED AND APPROVED THIS THE 20<sup>TH</sup> DAY OF JANUARY, 2011.

ATTEST:



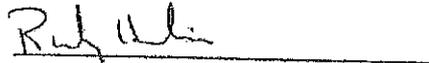
The Honorable Sara Montemayor  
County Clerk



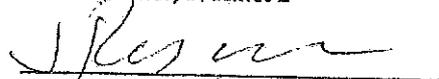
The Honorable David R. Saucedo  
County Judge



The Honorable Eliaz Maldonado  
Commissioner, Precinct 1



The Honorable Rudy Heredia  
Commissioner, Precinct 2



The Honorable Jose Luis Rosales  
Commissioner, Precinct 3



The Honorable César Flores  
Commissioner, Precinct 4

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**LOWERRE, FREDERICK, PERALES,  
ALLMON & ROCKWELL**

707 Rio Grande, Suite 200  
Austin, TX 78701  
(512) 469-6000 Phone  
(512) 482-9346 Fax

**FAX COVER SHEET**

FAX NUMBER TRANSMITTED TO:

**To: Ms. LaDonna Castañuela**

**239-3311**

**From: David O. Frederick**

**Date: January 25, 2011**

<b>DOCUMENTS</b>	<b>NUMBER OF PAGES (not including cover pg.)</b>
<b>Contested case hearing request regarding application of Dos Republicas Coal Partnership for renewal of TPDES permit number WQ0003511000, filed on behalf of Maverick County.</b>	<b>4</b>

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PLEASE CALL 512.469.6000 AS SOON AS POSSIBLE IF ALL PAGES ARE NOT RECEIVED OR IF THERE ARE ANY OTHER PROBLEMS WITH THE TRANSMITTAL OF THIS FAX.

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**LOWERRE, FREDERICK, PERALES,  
ALLMON & ROCKWELL**  
ATTORNEYS AT LAW  
707 Rio Grande, Suite 200  
Austin, TX 78701  
(512) 469-6000 / 482-9346 (FAX)

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**RECEIVED**

JAN 27 2011  
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MM

CHIEF CLERK'S OFFICE

JAN 27 11 19 AM '11

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

LOWERRE, FREDERICK, PERALES

2011 JAN 25 PM 4:33

ALLMON & ROCKWELL

CHIEF CLERKS OFFICE

ATTORNEYS AT LAW

707 Rio Grande, Suite 200

Austin, Texas 78701

(512) 469-6000 • (512) 482-9346 (facsimile)

Mail@LF-LawFirm.com

IWD  
72370

OPA

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
(512) 239-3311 (fax)

H, JAN 26 2011

January 25, 2011

By [Signature]

via facsimile transmission  
and deposit in the U.S. mail

Regarding: Application of Dos Republicas Coal Partnership for renewal of TPDES permit number WQ0003511000.

Dear Ms. Castañuela:

My firm has been retained to represent Maverick County, Texas, regarding the permitting matter referenced above. Maverick County requests a contested case hearing on this matter. You may direct communications on these matters to me at the letterhead address.

The Maverick County Commissioners' Court passed a resolution at its most recent public meeting reciting the fact of its opposition to this permit and setting out a number of reasons for that opposition. A copy of the resolution accompanies this comment/hearing request. The facts set out in the resolution are relied upon in support of this comment/hearing request.

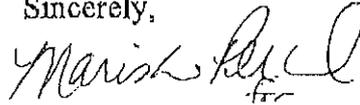
Maverick County owns parkland property on Elm Creek in close proximity to the site of the proposed Dos Republicas mine. Elm Creek is, in some instances, the immediate water body to which the discharges that would be authorized by this permit would be made and, in other instances, is the receiving water body for would-be discharges from unnamed tributaries that would be, themselves, the immediate receiving water bodies. Additionally, Maverick County is charged with safeguarding the health and welfare of Maverick County residents, and it exercises local enforcement authority<sup>1</sup> for TCEQ-issued permits. For these additional reasons, it is affected differently than are members of the public at large by the activities to be authorized by the Dos Republicas TPDES permit.

<sup>1</sup> Therefore, it has a particular interest in the practical enforceability of TCEQ-issued permits.

[Handwritten signature]

Maverick County relies on comments and issues raised by others, including those raised at or in conjunction with the January 25<sup>th</sup> public meeting being held in Eagle Pass, regarding this permit renewal. Additionally, Maverick County believes there is an issue with the adequacy of the fact sheet prepared the agency for this proposed permitting action. That fact sheet does not meet the standards of 40 CFR § 124.8, particularly as to the quantities (as opposed to concentrations) of wastes to be discharged. Additionally, Maverick County challenges Ms. Luxemburg's apparent conclusion (August 10, 2010) that the facility is not a "new source." The County also disputes your staff's determination that Elm Creek is not a perennial stream within 3 miles of a discharge point and the attendant analysis of water-quality-based effluent limitations and compliance of the would-be discharge with the State's Water Quality Standards.

Sincerely,



David Frederick

Xc: Hon. David Saucedo, County Judge  
Hon. Ricardo Ramos, County Attorney  
Hon. Jose Luis Rosales, Commissioner, Precinct 3

RESOLUTION

A RESOLUTION OF MAVERICK COUNTY, TEXAS, OPPOSING DOS REPUBLICAS COAL PARTNERSHIP RENEWAL PERMIT #WQ0003511000 BEFORE THE TEXAS COMMISSION OF ENVIRONMENTAL QUALITY.

WHEREAS, In July 2009, Dos Republicas Resources Co. entered into an Investigation agreement with Coahuila Industrial Minera, S.A. De C.V. and Reestructuradora Mexicana, S.A. De C.V.; and

WHEREAS, it has been stated in a deposition by Clark Moseley, a North American Coal Co. agent, that Coahuila's Industrial Minera, Grupo Acerero del Norte (GAN), and MICARE are all subsidiaries or affiliated in some way; and

WHEREAS, MICARE's work in the neighboring State of Coahuila has been condemned by the public and government for their disregard of underground water tables and lack of proper land reclamation; and

WHEREAS, discharge of chemically treated water and mine seepage from active mining areas into Elm Creek creates a serious risk of adverse impacts to Elm Creek and consequently to our drinking water resource, the Rio Grande River; and

WHEREAS, discharge of storm water and mine seepage creates a serious risk of polluting adjacent surrounding water wells within the area of the projected mine; and

WHEREAS, the mining operation may also affect the water supply of Eagle Pass, Piedras Negras, Coahuila, Mexico and other cities south of Eagle Pass, in both the United States and Mexico; and

WHEREAS, people who live in counties where coal is mined are much more likely to suffer from an array of chronic, life-threatening health problems, according to a study published in the April 2008 American Journal of Public Health; and

WHEREAS, the study found that these residents reported higher rates of cardiopulmonary disease, chronic obstructive pulmonary disease, hypertension, diabetes, lung and kidney disease; and

WHEREAS, there is a risk that the mine operations will create foundation problems and health hazards to children attending Pete Gallegos Elementary, Seco Mines Elementary and Texas Migrant Council Head-Start; and

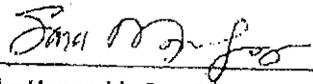
WHEREAS, the thousands of Maverick County citizens in subdivisions such as Thompson Road, Deer Run, Elm Creek, Seco Mines, Siesta Acres, Hopedale Estates and many others living near mining operations will likely be exposed to and inhale dust from surface mining operations, coal preparation and cleaning plants, truck and train loading facilities; and

WHEREAS, heavy vehicular traffic and usage of heavy equipment is likely to cause a heavy toll on infrastructure destruction on the already strapped Maverick County finances.

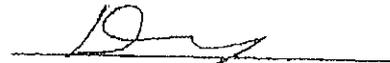
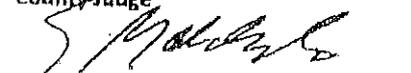
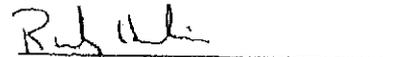
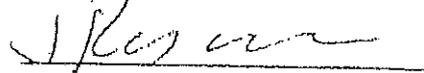
NOW, THEREFORE, BE IT RESOLVED that the Commissioners Court of Maverick County, Texas, oppose the Dos Republicas Coal Partnership Renewal Permit #WQ0003511000 before the Texas Commission of Environmental Quality.

READ, PASSED AND APPROVED THIS THE 20<sup>TH</sup> DAY OF JANUARY, 2011.

ATTEST:



The Honorable Sara Montemayor  
County Clerk

  
The Honorable David R. Saucedo  
County Judge  
The Honorable Eliaz Maldonado  
Commissioner, Precinct 1  
The Honorable Rudy Heredia  
Commissioner, Precinct 2  
The Honorable Jose Luis Rosales  
Commissioner, Precinct 3  
The Honorable César Flores  
Commissioner, Precinct 4

# LOWERRE, FREDERICK, PERALES, ALLMON & ROCKWELL

707 Rio Grande, Suite 200  
Austin, TX 78701  
(512) 469-6000 Phone  
(512) 482-9346 Fax

2011 JAN 25 PM 4:33  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

### FAX COVER SHEET

FAX NUMBER TRANSMITTED TO:

To: Ms. LaDonna Castañuela 239-3311

From: David O. Frederick  
Date: January 25, 2011

DOCUMENTS	NUMBER OF PAGES (not including cover pg)
Contested case hearing request regarding application of Dos Republicas Coal Partnership for renewal of TPDES permit number WQ0003511000, filed on behalf of Maverick County.	4

**CONFIDENTIALITY NOTICE:** This message is intended for the use of the individual or entity to which it is addressed. This message consists of information from LOWERRE, FREDERICK, PERALES, ALLMON & ROCKWELL and may be privileged, confidential and exempt from disclosure by law. Unauthorized distribution or copying of this information is prohibited. If you have received this communication in error, please notify us immediately at our telephone number listed above. We will promptly arrange for the return of the message to us.

PLEASE CALL 512.469.6000 AS SOON AS POSSIBLE IF ALL PAGES ARE NOT RECEIVED OR IF THERE ARE ANY OTHER PROBLEMS WITH THE TRANSMITTAL OF THIS FAX.

ft OPA  
AUG 30 2011  
BY bi

Humberts + Aus Dams  
MC 2 Box 196  
Edge Pass, TX 78852  
(830) 776-0216

DMT  
EX-3370

Melissa Chao Acting Chief Clerk  
TC EO, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

8/29/11

RE: Doe Republics Coal Partnership  
TPDES Permit NO. WQ0003511000

CHIEF CLERK'S OFFICE

SEP 29 11 10 02

TEXAS  
DEPARTMENT OF  
ENVIRONMENTAL  
QUALITY

We are requesting a contested case hearing for the above partnership. We live on 100 County Road in Edge Pass TX, so very close to the proposed mine.

Our main concern is the impact the mine will have on our health as we both are cancer survivors. My husband having had Lymphoma and I getting cancer. These two cancers are related to the H. pylori bacteria which is spread through unclean water.

Our water supply is delivered thru Canal Lateral 20, which is used for domestic use. Open pit mining will affect fresh water through pollution from discharge and seepage from leach, and waste rock impoundment. This discharge will go

DMT

into the Rio Grande via Elm Creek. Rio Grande water is the main source of drinking water. The danger of having contaminated water will affect us either way. Our older interest is being grandparents to seven boys that have an interest in the wildlife and exploration of the Elm Creek.

Mining discharge affects groundwater that may damage and destroy stream habitat. This means that it could affect the already endangered species and the frequent wildlife that depends on the creek for water. Our children have learned the impact our environment suffers when the habitat is destroyed.

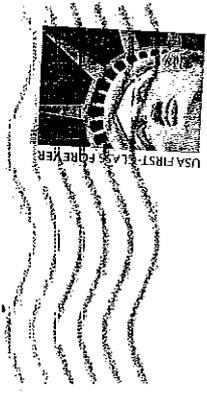
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We are party status for the Railroad Comm.  
Please allow us the opportunity to defend the immediate environment affecting our everyday lives. Please grant us a contested hearing by allowing us to be party status.

Respectfully  
Nemberto GOMEZ and Ana Gomez

*Members Long  
MC 2 Box 190  
East Pass, TX  
78852*

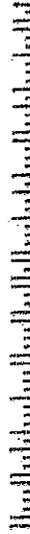
USA FIRST CLASS PERMIT NO. 41  
AUSTIN, TEXAS



*Melissa Chao, Acting Chief Clerk  
TCEO, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087*

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78711308787



A

OPA

SEP 06 2011

BY bf

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P O Box 13087  
Austin, Texas 78711-3087

IWD  
72370

August 30, 2011

Re: Dos Republicas Coal Partnership, TPDES Permit No.  
WQ0003511000

Dear Ms. Chao:

We are requesting that a contested hearing be held in the  
about permit and that we are granted party status.  
We live very close to the permit area and we are currently have  
party status before Rail Road Commission.

Our water comes from the canal Lateral 20, we ~~was~~ used this water  
for all our household needs and also we irrigate our pasture with  
canal water. We are concerned that our health, because of the coal  
dust that will settle in the canal lateral.

Sincerely,

Alonzo and Eva E. Gonzalez  
RT 2 Box 185  
Eagle Pass, Texas 78852  
830-773-3010

Alonzo Gonzalez

Eva E Gonzalez

CHIEF CLERK OFFICE

SEP 06 2011 10:27

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*CM*

 2011  
**E. Gonzalez**  
HC 2 Box 185  
Eagle Pass, TX 78852-9603

70 SAN ANTONIO, TX 78202  
PM  
09 SEP  
2011



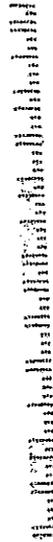
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SEP 06 2011

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*Melissa Chave*  
*acting chief clerk*  
*TEEA, MC-105*  
*PO Box 13087*  
*Austin, Texas 78711-3087*



H

OPA

SEP 01 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P O Box 13087  
Austin, Texas 78711-3087

1WD  
72370

By BF

August 30, 2011

Re: Dos Republicas Coal Partnership, TPDES Permit No.  
WQ0003511000

Dear Ms. Chao:

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Sincerely,

Alonzo and Eva E. Gonzalez  
RT 2 Box 185  
Eagle Pass, Texas 78852  
930-773-3010

Alonzo Gonzalez

Eva E Gonzalez

CHIEF CLERKS OFFICE

2011 AUG 31 PM 4: 22

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*mm*

LAW OFFICES OF

TEXAS RIOGRANDE LEGAL AID, INC.

542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830)752-6400/Fax. (830) 773-5806

FACSIMILE COVER SHEET

TO: MELISSA CHAO, ACTING CHIEF CLERK  
FAX NUMBER: 1-512-239-3311  
FROM: \_\_\_\_\_  
DATE: AUGUST 31, 2011  
RE: CONTESTED CASE HEARING REQUEST

NUMBER OF PAGES (including cover): \_\_\_\_\_  
IF PROBLEMS WITH TRANSMISSION, PLEASE CALL (830) 773-6151

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\*\*\*\*\*

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Done from formal comment ⑥

IP 160180

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal For Industrial Wastewater, No. WQ0003511000

CHIEF CLERK'S OFFICE

2011 JAN 31 PM 4:44

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

PLEASE PRINT:

Name: CARLOS HERNANDEZ, MD  
Address: 1975 N VETERANS BLVD STE 6  
City/State: EAGLE PASS TX Zip: 78852  
Phone: (839) 776-4445

Please add me to the mailing list. ✓

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

OPA RECEIVED

JAN 25 2011

I wish to provide formal written comments at tonight's public meeting. **AT PUBLIC MEETING**  
(Written comments may be submitted any time during the meeting)

I want to contest the TCEQ permit process.

1/25/11

*[Signature]*

Please give this to the person at the information table. Thank you.

*[Handwritten initials]*

TCEQ  
CENTRAL ENVIRONMENTAL  
QUALITY

CHIEF CLERK'S OFFICE

CHIEF CLERK'S OFFICE

*LWD*  
*73370*

Mike P. Hernandez  
Rt. 2 Box 171B  
Eagle Pass, TX 78852  
(830) 968-7880

August 28, 2011

*H* OPA

AUG 30 2011

By *BP*

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-3087

RE: Application by Dos Republicas Coal Partnership for TPDES Permit #WQ 0003511000

Dear Ms. Chao,

I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit # WQ 0003511000 to Dos Republicas Coal Partnership.

My property is surrounded by the permit area and the Elm Creek runs through my property, as well as canal Lateral 20.

My family uses the Elm Creek for recreational purposes as well as for fishing. Canal lateral 20 is used for irrigation as I use it to water my crops (Oats, sorghum, and rye). Although I do not sell these crops I use them to feed my horses and goats, which I do sell. I also use the water from canal lateral 20 to fill stock tank which does have several species of fish, (bass, perch, catfish, carp) as well as filling water troughs for the local wildlife (deer, turkey, feral hogs, javelina, and raccoons). I also use the canal water for household purposes.

Ms. Chao, I am very concerned about the environmental damage to my property, the Elm Creek, and canal lateral 20.

I currently have party status before the Railroad Commission and I respectfully request that a TCEQ contested hearing be granted and that I may be granted party status.

Respectfully

*Mike P. Hernandez*

Mike P. Hernandez

*MW*

Mike Hernandez  
Rm 1718  
HC2  
Eagle Pass, TX 78852

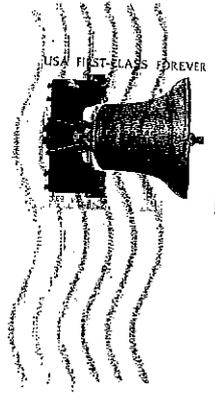


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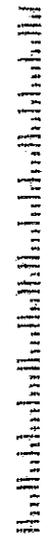
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JR

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX. 78711-3087



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H OPA  
AUG 31 2011

BY BF

August 29, 2011  
Eagle Pass, Texas 78852

Melissa Chao, Acting Chief Clerk  
TECQ, MC -105  
P.O. Box 13087  
Austin, Texas 78711-3087

1WD  
72370

RE: Dos Republicas Coal Partnership  
Permit No. WQ0003511000

CHIEF CLERKS OFFICE

AUG 31 5:11:02

TEXAS  
DEPARTMENT OF  
ENVIRONMENTAL  
QUALITY

Dear Ms. Melissa Chao

I respectfully request that a contested hearing be held regarding Permit No. WQ0003511000 and we request party status so that we can participate at the contested hearing.

We are adjacent to the proposed coal mine and know that we will be adversely affected by it. We have livestock that drink from the canal as well as Elm Creek. We raise hay to feed them and irrigate from the canal Lateral 20. Also plant winter feed for them to have.

We are concerned that coal toxic and chemicals will be carried and effect our water supply for our lively hood as well as our personal household water and our health.

Sincerely,

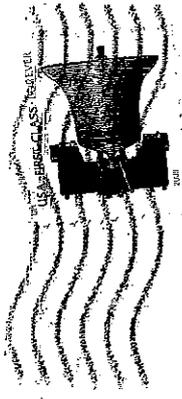
*Walter & Ladye Herring*

Walter & Ladye Herring  
3959 FM 1588  
Eagle Pass, Texas 78852  
830-773-3373 cell 830-776-0163

MW

3939 FM 1588  
Eagle Pass TX 78852  
Randy Skewing

SAN ANTONIO TX 782  
30 AUG 2011 PM 4 1



Chief Clerk Office MC 106  
TCEQ  
PO Box 13087  
Austin Tex 78711-1308  
2011 AUG 31 11:02  
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AUG 31 2011  
TCEQ MAIL CENTER  
AUG 31 2011

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QUALITY

7671306767



August 29, 2011  
Eagle Pass, Texas 78852

Melissa Chao, Acting Chief Clerk  
TECQ, MC -105  
P.O. Box 13087  
Austin, Texas 78711-3087

*LWD  
72370*

*H*  
OPA  
AUG 30 2011  
BY *hy*

RE: Dos Republicas Coal Partnership  
Permit No. WQ0003511000

Dear Ms. Melissa Chao

I respectfully request that a contested hearing be held regarding Permit No. WQ0003511000 and we request party status so that we can participate at the contested hearing.

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We are concerned that coal toxic and chemicals will be carried and effect our water supply for our lively hood as well as our personal household water and our health.

Sincerely,

*Walter & Ladye Herring*

Walter & Ladye Herring  
3959 FM 1588  
Eagle Pass, Texas 78852  
830-773-3373 cell 830-776-0163

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 AUG 29 PM 3:01  
CHIEF CLERKS OFFICE

*CMW*

=== COVER PAGE ===

---

TO: \_\_\_\_\_

FROM: ALMA FERNANDEZ

FAX: 8307579947

TEL: 8307570049

COMMENT: ALMA FERNANDEZ

---

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 AUG 29 PM 3:01  
CHIEF CLERKS OFFICE

---

att

MelissaChao

512 239 33 11

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

PLEASE PRINT

Name: LADY E Nerrins

Mailing Address: 3959 FM 1588

Physical Address (if different): same

City/State: Eagle Pass, TX Zip: 78852

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: \_\_\_\_\_

Phone Number: (830) 776-0163 cell 830-993-3303

- Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? \_\_\_\_\_

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.  
(Written comments may be submitted at any time during the meeting)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 2011 JAN 31 PM 4:47  
 CHIEF CLERKS OFFICE

Please give this form to the person at the information table. Thank you.

*Handwritten signature*

Ernesto Ibarra  
3187 Tina Drive  
Eagle Pass, Texas 78852

August 29, 2011

Melissa Chao, Acting Chief Clerk  
T.C.E.Q., MC-105  
P.O. box 13087  
Austin, Texas 78711-3087

*LWD*  
*72370*

*H*  
OPA  
AUG 30 2011  
BY *BP*

TEXAS  
DEPARTMENT OF  
ENVIRONMENTAL  
QUALITY  
CHIEF CLERK'S OFFICE  
AUG 30 11 10 04

RE: Dos Republicas Coal Partnership  
Permit No. WQ0003511000

Dear Ms. Chao,

**I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit No. WQ0003511000 to Dos Republicas Coal Partnership.**

I am in the middle of the permit area and the Elm Creek and Canal Lateral 20 runs through my property. I am very concerned that coal dust and mine seepage discharged through the Elm Creek will damage my property and my water.

My family uses the Elm Creek for recreation and I am concerned for their health, especially my young grandchildren. I use canal Lateral 20 to irrigate my crops which are, oats, rye, and sucrose which I use to feed my animals. Canal Lateral 20 is my only source of water for household use.

I currently have party status before the Railroad Commission and I respectfully request that a T.C.E.Q. Contested Hearing be granted and that I may be granted party status.

*Ernesto Ibarra*

*BP*

ERNESTO IBARRA  
3187 Tina Drive  
Eagle Pass, TX

78852



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
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2011 AUG 30 AM 10:04

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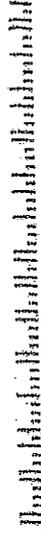
CHIEF CLERK

MELISSA CHAO, ACTING CHIEF CLERK  
T.C.E.Q., MC-105  
P.O. BOX 13087  
AUSTIN, TX 78711-3087

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AUG 30 2011

TCEQ MAIL CENTER  
RG



78711308797

Ernesto Ibarra  
3187 Tina Drive  
Eagle Pass, Texas 78852

August 29, 2011

Melissa Chao, Acting Chief Clerk  
T.C.E.Q., MC-105  
P.O. box 13087  
Austin, Texas 78711-3087

H  
OPA  
AUG 30 2011  
by bl  
LWD  
72370

TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY  
CHIEF CLERKS OFFICE  
AUG 29 PM 2:37

RE: Dos Republicas Coal Partnership  
Permit No. WQ0003511000

Dear Ms. Chao,

I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit No. WQ0003511000 to Dos Republicas Coal Partnership.

I am in the middle of the permit area and the Elm Creek and Canal Lateral 20 runs through my property. I am very concerned that coal dust and mine seepage discharged through the Elm Creek will damage my property and my water.

My family uses the Elm Creek for recreation and I am concerned for their health, especially my young grandchildren. I use canal Lateral 20 to irrigate my crops which are, oats, rye, and sucrose which I use to feed my animals. Canal Lateral 20 is my only source of water for household use.

I currently have party status before the Railroad Commission and I respectfully request that a T.C.E.Q. Contested Hearing be granted and that I may be granted party status.

*Ernesto Ibarra*

*CMW*

LAW OFFICES OF

TEXAS RIOGRANDE LEGAL AID, INC.

542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830)752-6400/Fax. (830) 773-5806

CHIEF CLERKS OFFICE

AUG 29 PM 2:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

FACSIMILE COVER SHEET

TO: Melissa Chao, Acting Chief Clerk, TCEQ  
FAX NUMBER: (512) 239-3311  
FROM: Ernesto Ibarra  
DATE: August 29, 2011  
RE: DOS REPUBLICAS COAL PARTNERSHIP, Permit No. WQ0003511000  
NUMBER OF PAGES (including cover): 2

IF PROBLEMS WITH TRANSMISSION, PLEASE CALL (830) 773-6151

\*\*\*\*\*

Here is my request for a contested case hearing in  
above matter. The hardcopy is in the mail.

\*\*\*\*\*

NOTICE

THE INFORMATION CONTAINED IN THIS CONFIDENTIAL COMMUNICATION MAY BE PROTECTED FROM DISCLOSURE BY THE ATTORNEY-CLIENT PRIVILEGE, BY THE ATTORNEY WORK-PRODUCT PRIVILEGE, OR AS A CONFIDENTIAL COMMUNICATION FOR SETTLEMENT PURPOSES ONLY. THIS CONFIDENTIAL COMMUNICATION IS INTENDED ONLY FOR THE PERSON NAMED ABOVE, AND THE FOREGOING PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY FACSIMILE.

IF THE CONFIDENTIAL COMMUNICATION IS RECEIVED BY ANY PERSON OTHER THAN THE PERSON NAMED ABOVE OR THAT PERSON'S AUTHORIZED AGENT OR EMPLOYEE, BE ON NOTICE THAT ANY USE, COPYING, DISSEMINATION OR DISTRIBUTION OF THIS CONFIDENTIAL COMMUNICATION IS STRICTLY FORBIDDEN. IF YOU HAVE RECEIVED THIS CONFIDENTIAL COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND RETURN THIS COMMUNICATION TO THE SENDER AT THE ADDRESS LISTED ABOVE VIA THE U.S. MAIL.



**KICKAPOO TRADITIONAL TRIBE OF TEXAS', CITY OF EAGLE PASS', MAVERICK COUNTY HOSPITAL DISTRICT'S, MR. ANSON HOWARD'S AND MR. RYLAND HOWARD'S REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**  
**RE: APPLICATION AND PRELIMINARY DECISION FOR WATER**  
**QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER, TPDES**  
**PERMIT NO. WQ0003511000**

2011 AUG 31 PM 4:50  
 CHIEF CLERK'S OFFICE  
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

We, the Kickapoo Traditional Tribe of Texas ("Tribe"), City of Eagle Pass, Texas, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard request a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000 and file this its **MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**.

The City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard have all previously submitted contact information. In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** ~~DOS-REPUBLICAS COAL PARTNERSHIP ("Dos-Republicas")~~  
**PERMIT #:** TPDES # WQ0003511000

**STANDING TO PARTICIPATE IN CONTESTED HEARING:** Pursuant to Section 12.209(a) of the Tex. Adm. Code – Section 16, Part I, Chapter 12, Subchapter G, Division 11, both the Kickapoo Traditional Tribe of Texas, City of Eagle Pass and Maverick County Hospital District are governmental entities entitled to participate in this matter. That provision provides that:

"Any person whose interests are or may be adversely affected or an officer or head of any federal, state, or local governmental agency or authority shall have the right to file written objections to an Initial or revised application for permit with the Commission...."

The Kickapoo Tribe qualifies as having standing to participate as both a group that is adversely affected and as a governmental body. The Tribe's representative rights have been conferred upon it by virtue of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), Public Law 97-429 and the Constitution of the Kickapoo Traditional Tribe of Texas.

Both Mr. Howard's have standing to participate due to the proximity of the proposed mine to their real property.

---

**LOCATION AND DISTANCE OF YOUR PROPERTY/ACTIVITIES RELATIVE TO THE FACILITY:** The proposed mine is located within the City of Eagle Pass, Texas. The reservation of the Tribe is located approximately 12 miles from the Applicant's facility. However, the Tribe rents agricultural lands in the vicinity of the proposed mine and its members live and work throughout Maverick County, Texas. The water that is consumed by the Tribal members is removed by the City of Eagle Pass 1-mile downstream the Rio Grande River from the exit point of Elm Creek into the Rio Grande. Dust from the vicinity of the proposed mining operation travels great distances in this region and is anticipated to reach the City of Eagle Pass in general and the Tribe's agricultural business interests and homes. The Tribe's reservations, businesses and homes are all located directly on the Rio Grande River, while the public at large is situated further away.

**INDIVIDUAL TRIBAL MEMBER AFFECTED:** Chairman, Mr. Juan Garza, Jr. Mr. Garza resides on the reservation of the Kickapoo Traditional Tribe of Texas. He believes that the quality of both the air he breaths and the water he drinks will be adversely affected by water discharge from the Dos Republicas mine into Elm Creek, which will then be directly carried to the reservation. Unlike the City of Eagle Pass, the reservation and tribal members' home are sited directly on the banks of the Rio Grande River. As Native Americans, tribal members enjoy a close relationship with their land and obtain their sustenance directly from crops grown on the reservation, which are irrigated by waters from the Rio Grande River downstream from the Applicant's mining facility.

---

**GROUND FOR RECONSIDERATION:** The Kickapoo Traditional Tribe of Texas has previously submitted public comment and questions regarding community concerns and widespread opposition to this permit. TCEQ has not obtained answers to such previously submitted questions and they are incorporated herein as if set out verbatim. The Tribe, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard are deeply concerned by the granting of TPDES Permit No. WQ0003511000 and the TCEQ's failure to obtain answers to previously submitted questions. Some of the points that have not been addressed due to the TCEQ's failure to conduct a CONTESTED HEARING include:

1. **POTENTIAL HARM IS NOT LIMITED TO THE AREA IMMEDIATELY SURROUNDING THE PROPOSED MINING OPERATIONS.**
  - a. ARID CONDITIONS CONSTITUTE SPECIAL HAZARD TO LARGER AREA. Dos Republicas has submitted no air modeling to address the issue of harm to the waterways that will result from the high wind and arid conditions (with periodic flash floods). These conditions will disperse both coal and normal dust over large areas absent special efforts at dust abatement. Dos Republicas has not

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submitted for consideration a dust abatement plan. Nor has it supported a water usage plan to evidence how a dust abatement plan would work. Without these plans and the air model showing where the dust is likely to travel, the affected area has not been defined and no attempt has been made to determine the actual impact on public waterways and health by either Dos Republicas or TCEQ.

- b. UNCOVERED TRAIN CARS. Dos Republicas admitted in the June 15, 2011 public meeting before the Railroad Commission of Texas that it will be transporting hundreds of uncovered coal train cars through the area surrounding Elm Creek and the Rio Grande River for 20+ years through the heart of the City of Eagle Pass and across the Rio Grande River with open train cars. This means that the area which coal dust will be affected is basically throughout Maverick County. This will bring Dos Republicas' coal dust in close proximity with all waterways and the lands, businesses and schools which are owned and/or attended by the Howards and Kickapoos and throughout the City of Eagle Pass in general.
- c. DISCHARGE INTO RIO GRANDE RIVER. On information and belief, Dos Republicas' parent company will process the dirty coal obtained from the mine located in Eagle Pass in Mexico and burn it across the river from the Kickapoo Reservation. The products of processing will drain into the Rio Grande River which is on Kickapoo land and the by-products of burning in Mexico without the benefit of pollution controls will directly pollute the air and water of the Rio Grande River. The City of Eagle Pass will be likewise impacted.

---

2. AUTOMATIC TERMINATION OF PERMITS. The Texas Natural Resources Code contains a mandatory termination clause that provides "...a mining permit will expire within three years of its issuance if the permit holder has not begun 'surface coal mining' operations by that date." Tex. Nat. Res. Code Ann. § 134.072(a). In previous litigation, an opinion was issued in *Railroad Commission of Texas and Dos Republicas Resources Co., Inc. v. Theodosia Coppock, et al.*, 215 S.W.3d 559 (Tex. Civ. App. – Austin, 2007). Though the permit was originally granted on this facility in 1992, surface coal mining operations still have not begun and are not expected to proceed until 2013.

- a. ADMISSION THAT NO "COAL MINING OPERATIONS" HAVE BEGUN. Dos Republicas publically admitted on June 15, 2011 at a meeting conducted by the Railroad Commission that the only activity that has taken place at the proposed

mining site since the granting of the Railroad Commission permit in 1992 has been the building of a pond during 2005. Since that time, neither Dos Republicas nor its successor have undertaken any mining operations. This admission was made by Mr. Pete Nielson, President of Camino Real Fuels, LLC. In fact, Mr. Nielson estimated that no mining operations will begin prior to mid-2013. Dos Republicas made a slide presentation at the June 15, 2011 public meeting. A slide reflecting this schedule is attached as Exhibit "1" (the handwritten notes are not part of the original slide and are not being offered into evidence). Mr. Nielson testified that the first thing Dos Republicas must do to prepare for mining operations, prior to building any roads, rails or facilities, is to control water. He says the second thing that must be done before mining operations can commence is the creation of collector ditches, surrounding the active mining operations, including the building of sedimentation ponds. The third thing identified by Mr. Nielson that Dos Republicas must do before beginning mining operations is to build the rail loop, road to the shop, coal handling facilities, office, shop, haul road. Then he would hire workers for the coal mining operations. The fourth stage would be the beginning of mining operations, which he testified would begin in the late second quarter of 2013. A slide summarizing that plan of action was shown to the public. See Exhibit "1". None of these actions have taken place.

- b. ~~TCEQ ACTION ON THIS APPLICATION IS PREMATURE/RAILROAD COMMISSION HAS GRANTED A CONTESTED HEARING.~~ The permit on the facility should have automatically terminated pursuant to the early termination provisions of the Texas Natural Resources Code. The Railroad Commission of Texas has granted a CONTESTED HEARING on whether the permit should issue. The TCEQ should do the same since a permit for discharge without a permit to operate would be inappropriate.

**PRAYER.** The TCEQ has all the justification it needs to deny the extension of the requested waste water and storm water permit on the basis of the early termination provision in the Texas Natural Resources Code. At a minimum, the TCEQ should provide evidence regarding the dust abatement plan, water usage plan and air and water modeling to demonstrate the level of hazard proposed by the site. The Kickapoo Traditional Tribe of Texas, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard should be afforded the right to conduct discovery to analyze Dos Republicas evidence,

# Eagle Pass Mine Schedule



DRCP Eagle Pass Mine

MINING PERMIT RENEWAL  
 DATE 15-sep  
 OTHER STUDIES AND PERMITS  
 DATE 18-may  
 MINE SITE DEVELOPMENT  
 DATE May 2013  
 EQUIPMENT PROCUREMENT  
 DATE Oct 2012  
 START UP MINE OPERATIONS  
 DATE Ago 2013



*Should only see a record. Samples only.*

→ *Panel in place.*  
*with left - within*  
*3005 - before*

*Communications usually receive a approval.*

DRCP Eagle Pass Mine

Exhibit "I"

**TRADITIONAL  
COUNCIL**

**CHAIRMAN**  
Juan Garza, Jr., Kisirikn

**SECRETARY**  
Jesus Anico, Chakodan

**TREASURER**  
Rogelio Elizondo, Apichicua

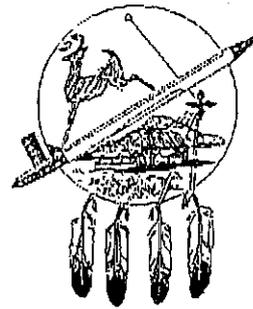
**MEMBERS**  
David J. Gonzalez, Kikokideah  
Nanate Hernandez, Nanatea

**KICKAPOO**

**TRADITIONAL  
TRIBE OF TEXAS**

HCR 1 Box 9700  
Eagle Pass, Texas 78852

LEGAL DEPARTMENT



*Traditional  
Council*

**FACSIMILE TRANSMISSION**

DATE: August 31, 2011  
RE:  
PAGES: 1 of 8

2011 AUG 31 PM 4:49  
CHIEF CLERKS OFFICE  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Melissa Chao, Acting Chief Clerk	(512) 239-3311

MESSAGE: Please note that this motion contains additional parties joining the motion as well as Exhibit "I".

**KICKAPOO TRADITIONAL TRIBE OF TEXAS'**  
**REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF**  
**THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011 RE: APPLICATION AND**  
**PRELIMINARY DECISION FOR WATERQUALITY TPDES PERMIT RENEWAL FOR**  
**INDUSTRIAL WASTEWATER, TPDES PERMIT NO. WQ0003511000**

**CONFIDENTIAL**

The information contained in this transmission is confidential and intended for the stated recipient(s). If you receive this transmission in error, please dispose of it and do not disburse its contents.

# LEGAL DEPARTMENT

*LWD*  
*72370*

*RFR*  
*H*

August 31, 2011  
Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
VIA Facsimile: (512)239-3311

OPA

SEP 01 2011

BY BP

CHIEF CLERKS OFFICE

2011 AUG 31 PM 4:55

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

GLORIA E.  
HERNANDEZ  
General Counsel

ROBERTO L.  
RODRIGUEZ  
Associate General  
Counsel

CARLOS PATINO  
Paralegal

HECTOR  
GONZALEZ  
Paralegal

Re: Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000

Dear Ms Chao:

Please note that this motion contains additional parties joining the motion as well as Exhibit "I". Attached you will find the Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000. file among this file's documents in the usual manner.

Please do not hesitate to call me should there be any concern regarding this filing.

Sincerely,



Carlos Patino  
Paralegal  
Kickapoo Traditional Tribe of Texas

## KICKAPOO TRADITIONAL TRIBE OF TEXAS

*MCC*

**KICKAPOO TRADITIONAL TRIBE OF TEXAS', CITY OF EAGLE PASS', MAVERICK COUNTY HOSPITAL DISTRICT'S, MR. ANSON HOWARD'S AND MR. RYLAND HOWARD'S REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**  
**RE: APPLICATION AND PRELIMINARY DECISION FOR WATER QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER, TPDES PERMIT NO. WQ0003511000**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 AUG 31 2011 4:00 PM  
 HHS CLERKS OFFICE

We, the Kickapoo Traditional Tribe of Texas ("Tribe"), City of Eagle Pass, Texas, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard request a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000 and file this its **MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**.

The City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard have all previously submitted contact information. In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** DOS REPUBLICAS COAL PARTNERSHIP ("Dos Republicas")  
**PERMIT #:** TPDES # WQ0003511000

**STANDING TO PARTICIPATE IN CONTESTED HEARING:** Pursuant to Section 12.209(a) of the Tex. Adm. Code – Section 16, Part I, Chapter 12, Subchapter G, Division 11, both the Kickapoo Traditional Tribe of Texas, City of Eagle Pass and Maverick County Hospital District are governmental entities entitled to participate in this matter. That provision provides that:

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Both Mr. Howard's have standing to participate due to the proximity of the proposed mine to their real property.

---

**LOCATION AND DISTANCE OF YOUR PROPERTY/ACTIVITIES RELATIVE TO THE FACILITY:** The proposed mine is located within the City of Eagle Pass, Texas. The reservation of the Tribe is located approximately 12 miles from the Applicant's facility. However, the Tribe rents agricultural lands in the vicinity of the proposed mine and its members live and work throughout Maverick County, Texas. The water that is consumed by the Tribal members is removed by the City of Eagle Pass 1-mile downstream the Rio Grande River from the exit point of Elm Creek into the Rio Grande. Dust from the vicinity of the proposed mining operation travels great distances in this region and is anticipated to reach the City of Eagle Pass in general and the Tribe's agricultural business interests and homes. The Tribe's reservations, businesses and homes are all located directly on the Rio Grande River, while the public at large is situated further away.

**INDIVIDUAL TRIBAL MEMBER AFFECTED:** Chairman, Mr. Juan Garza, Jr. Mr. Garza resides on the reservation of the Kickapoo Traditional Tribe of Texas. He believes that the quality of both the air he breaths and the water he drinks will be adversely affected by water discharge from the Dos Republicas mine into Elm Creek, which will then be directly carried to the reservation. Unlike the City of Eagle Pass, the reservation and tribal members' home are sited directly on the banks of the Rio Grande River. As Native Americans, tribal members enjoy a close relationship with their land and obtain their sustenance directly from crops grown on the reservation, which are irrigated by waters from the Rio Grande River downstream from the Applicant's mining facility.

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**GROUND FOR RECONSIDERATION:** The Kickapoo Traditional Tribe of Texas has previously submitted public comment and questions regarding community concerns and widespread opposition to this permit. TCEQ has not obtained answers to such previously submitted questions and they are incorporated herein as if set out verbatim. The Tribe, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard are deeply concerned by the granting of TPDES Permit No. WQ0003511000 and the TCEQ's failure to obtain answers to previously submitted questions. Some of the points that have not been addressed due to the TCEQ's failure to conduct a CONTESTED HEARING include:

1. **POTENTIAL HARM IS NOT LIMITED TO THE AREA IMMEDIATELY SURROUNDING THE PROPOSED MINING OPERATIONS.**
  - a. ARID CONDITIONS CONSTITUTE SPECIAL HAZARD TO LARGER AREA. Dos Republicas has submitted no air modeling to address the issue of harm to the waterways that will result from the high wind and arid conditions (with periodic flash floods). These conditions will disperse both coal and normal dust over large areas absent special efforts at dust abatement. Dos Republicas has not

---

submitted for consideration a dust abatement plan. Nor has it supported a water usage plan to evidence how a dust abatement plan would work. Without these plans and the air model showing where the dust is likely to travel, the affected area has not been defined and no attempt has been made to determine the actual impact on public waterways and health by either Dos Republicas or TCEQ.

b. UNCOVERED TRAIN CARS. Dos Republicas admitted in the June 15, 2011 public meeting before the Railroad Commission of Texas that it will be transporting hundreds of uncovered coal train cars through the area surrounding Elm Creek and the Rio Grande River for 20+ years through the heart of the City of Eagle Pass and across the Rio Grande River with open train cars. This means that the area which coal dust will be affected is basically throughout Maverick County. This will bring Dos Republicas' coal dust in close proximity with all waterways and the lands, businesses and schools which are owned and/or attended by the Howards and Kickapoos and throughout the City of Eagle Pass in general.

c. DISCHARGE INTO RIO GRANDE RIVER. On information and belief, Dos Republicas' parent company will process the dirty coal obtained from the mine located in Eagle Pass in Mexico and burn it across the river from the Kickapoo Reservation. The products of processing will drain into the Rio Grande River which is on Kickapoo land and the by-products of burning in Mexico without the benefit of pollution controls will directly pollute the air and water of the Rio Grande River. The City of Eagle Pass will be likewise impacted.

2. AUTOMATIC TERMINATION OF PERMITS. The Texas Natural Resources Code contains a mandatory termination clause that provides "...a mining permit will expire within three years of its issuance if the permit holder has not begun 'surface coal mining' operations by that date." Tex. Nat. Res. Code Ann. § 134.072(a). In previous litigation, an opinion was issued in *Railroad Commission of Texas and Dos Republicas Resources Co., Inc. v. Theodosia Coppock, et al.*, 215 S.W.3d 559 (Tex. Civ. App. – Austin, 2007). Though the permit was originally granted on this facility in 1992, surface coal mining operations still have not begun and are not expected to proceed until 2013.

a. ADMISSION THAT NO "COAL MINING OPERATIONS" HAVE BEGUN. Dos Republicas publically admitted on June 15, 2011 at a meeting conducted by the Railroad Commission that the only activity that has taken place at the proposed

mining site since the granting of the Railroad Commission permit in 1992 has been the building of a pond during 2005. Since that time, neither Dos Republicas nor its successor have undertaken any mining operations. This admission was made by Mr. Pete Nielson, President of Camino Real Fuels, LLC. In fact, Mr. Nielson estimated that no mining operations will begin prior to mid-2013. Dos Republicas made a slide presentation at the June 15, 2011 public meeting. A slide reflecting this schedule is attached as Exhibit "1" (the handwritten notes are not part of the original slide and are not being offered into evidence). Mr. Nielson testified that the first thing Dos Republicas must do to prepare for mining operations, prior to building any roads, rails or facilities, is to control water. He says the second thing that must be done before mining operations can commence is the creation of collector ditches, surrounding the active mining operations, including the building of sedimentation ponds. The third thing identified by Mr. Nielson that Dos Republicas must do before beginning mining operations is to build the rail loop, road to the shop, coal handling facilities, office, shop, haul road. Then he would hire workers for the coal mining operations. The fourth stage would be the beginning of mining operations, which he testified would begin in the late second quarter of 2013. A slide summarizing that plan of action was shown to the public. See Exhibit "1". None of these actions have taken place.

- b. ~~TCEQ ACTION ON THIS APPLICATION IS PREMATURE/RAILROAD COMMISSION HAS GRANTED A CONTESTED HEARING.~~ The permit on the facility should have automatically terminated pursuant to the early termination provisions of the Texas Natural Resources Code. The Railroad Commission of Texas has granted a CONTESTED HEARING on whether the permit should issue. The TCEQ should do the same since a permit for discharge without a permit to operate would be inappropriate.

PRAYER. The TCEQ has all the justification it needs to deny the extension of the requested waste water and storm water permit on the basis of the early termination provision in the Texas Natural Resources Code. At a minimum, the TCEQ should provide evidence regarding the dust abatement plan, water usage plan and air and water modeling to demonstrate the level of hazard proposed by the site. The Kickapoo Traditional Tribe of Texas, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard should be afforded the right to conduct discovery to analyze Dos Republicas evidence,

cross-examine Dos Republicas witnesses and present witnesses of its own. By not affording a CONTESTED HEARING, this right has been denied by the TCEQ. Therefore, the above referenced persons and entities requests that a CONTESTED HEARING be granted and the TCEQ RECONSIDER its previous ruling of August 1, 2011.

Respectfully submitted,

Elizabeth Burkhardt  
SBT #: 03415500  
9821 Shadow Wood Dr.  
Houston, TX 77080  
Phone: 832-922-2919  
Fax: 713-468-5932  
E-mail: [Burkhardtlaw@comcast.net](mailto:Burkhardtlaw@comcast.net)

Eddie Morales, City Attorney, City of Eagle Pass  
Signed by permission

*Celeste P. Lira* by perm.

Celeste P. Lira  
Brin & Brin, P.C.  
6223 IH 10 West  
San Antonio, TX 78201  
Phone: 210-341-9711  
Facsimile: 210-341-1854  
E-mail: [clira@brinandbrin.com](mailto:clira@brinandbrin.com)

Signed by permission

*Anson Howard*  
Mr. Anson Howard, signed by permission

*Ryland Howard*, by perm.  
Mr. Ryland Howard, signed by permission

**TRADITIONAL  
COUNCIL**

**CHAIRMAN**  
Juan Garza, Jr., Kisisika

**SECRETARY**  
Jesus Anico, Chakodata

**TREASURER**  
Rogelio Elizondo, Apichicua

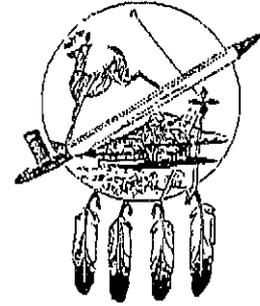
**MEMBERS**  
David J. Gonzalez, Kikakideah  
Nanate Hernandez, Nnataen

**KICKAPOO**

**TRADITIONAL  
TRIBE OF TEXAS**

HCR 1 Box 9700  
Eagle Pass, Texas 78852

LEGAL DEPARTMENT



*Traditional  
Council*

**FACSIMILE TRANSMISSION**

DATE: August 31, 2011  
RE:  
PAGES: 1 of 8

2011 AUG 31 PM 4:50  
CHIEF CLERKS OFFICE  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Melissa Chao, Acting Chief Clerk	(512) 239-3311

MESSAGE: Please note that this motion contains additional parties joining the motion as well as Exhibit "T".

**KICKAPOO TRADITIONAL TRIBE OF TEXAS'**  
**REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF**  
**THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011 RE: APPLICATION AND**  
**PRELIMINARY DECISION FOR WATERQUALITY TPDES PERMIT RENEWAL FOR**  
**INDUSTRIAL WASTEWATER, TPDES PERMIT NO. WQ0003511000**

**CONFIDENTIAL**

The information contained in this transmission is confidential and intended for the stated recipient(s). If you receive this transmission in error, please dispose of it and do not disburse its contents.

*IWD*  
*72370*

# LEGAL DEPARTMENT

*RFR*  
*H*

*OPA*  
*SEP 01 2011*  
*hp*  
BY \_\_\_\_\_

TEXAS  
COMMISSION  
ENVIRONMENTAL  
QUALITY  
CLERKS OFFICE  
31 PM 4:50

August 31, 2011  
Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
VIA Facsimile: (512)239-3311

GLORIA E.  
HERNANDEZ  
General Counsel

ROBERTO L.  
RODRIGUEZ  
Associate General  
Counsel

CARLOS PATINO  
Paralegal

HECTOR  
GONZALEZ  
Paralegal

Re: Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000

Dear Ms Chao:

Please note that this motion contains additional parties joining the motion as well as Exhibit "I". Attached you will find the Kickapoo Traditional Tribe of Texas' Request for a Contested Case Hearing and Motion to Reconsider Order of the TCEQ Executive Director Dated August 1, 2011 RE: Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater, TPDES Permit No. WQ0003511000. file among this file's documents in the usual manner.

Please do not hesitate to call me should there be any concern regarding this filing.

Sincerely,

*CP*  
\_\_\_\_\_  
Carlos Patino  
Paralegal  
Kickapoo Traditional Tribe of Texas

MARTHA  
MARTINEZ  
Legal Assistant

## KICKAPOO TRADITIONAL TRIBE OF TEXAS

*MW*

**KICKAPOO TRADITIONAL TRIBE OF TEXAS', CITY OF EAGLE PASS', MAVERICK COUNTY HOSPITAL DISTRICT'S, MR. ANSON HOWARD'S AND MR. RYLAND HOWARD'S REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**  
**RE: APPLICATION AND PRELIMINARY DECISION FOR WATER**  
**QUALITY TPDES PERMIT RENEWAL FOR INDUSTRIAL WASTEWATER, TPDES**  
**PERMIT NO. WQ0003511000**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 011 AUG 31 PM 4:50  
 CHIEF CLERKS OFFICE

We, the Kickapoo Traditional Tribe of Texas ("Tribe"), City of Eagle Pass, Texas, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard request a **CONTESTED CASE HEARING** regarding TPDES Permit No. WQ0003511000 and file this its **MOTION TO RECONSIDER ORDER OF THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011**.

The City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard have all previously submitted contact information. In connection with this request, the Tribe provides the following information:

**APPLICANT'S NAME:** ~~DOS-REPUBLICAS COAL PARTNERSHIP ("Dos-Republicas")~~  
**PERMIT #:** TPDES # WQ0003511000

**STANDING TO PARTICIPATE IN CONTESTED HEARING:** Pursuant to Section 12.209(a) of the Tex. Adm. Code – Section 16, Part I, Chapter 12, Subchapter G, Division 11, both the Kickapoo Traditional Tribe of Texas, City of Eagle Pass and Maverick County Hospital District are governmental entities entitled to participate in this matter. That provision provides that:

"Any person whose interests are or may be adversely affected or an officer or head of any federal, state, or local governmental agency or authority shall have the right to file written objections to an initial or revised application for permit with the Commission...."

The Kickapoo Tribe qualifies as having standing to participate as both a group that is adversely affected and as a governmental body. The Tribe's representative rights have been conferred upon it by virtue of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), Public Law 97-429 and the Constitution of the Kickapoo Traditional Tribe of Texas.

Both Mr. Howard's have standing to participate due to the proximity of the proposed mine to their real property.

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**LOCATION AND DISTANCE OF YOUR PROPERTY/ACTIVITIES RELATIVE TO THE FACILITY:** The proposed mine is located within the City of Eagle Pass, Texas. The reservation of the Tribe is located approximately 12 miles from the Applicant's facility. However, the Tribe rents agricultural lands in the vicinity of the proposed mine and its members live and work throughout Maverick County, Texas. The water that is consumed by the Tribal members is removed by the City of Eagle Pass 1-mile downstream the Rio Grande River from the exit point of Elm Creek into the Rio Grande. Dust from the vicinity of the proposed mining operation travels great distances in this region and is anticipated to reach the City of Eagle Pass in general and the Tribe's agricultural business interests and homes. The Tribe's reservations, businesses and homes are all located directly on the Rio Grande River, while the public at large is situated further away.

**INDIVIDUAL TRIBAL MEMBER AFFECTED:** Chairman, Mr. Juan Garza, Jr. Mr. Garza resides on the reservation of the Kickapoo Traditional Tribe of Texas. He believes that the quality of both the air he breaths and the water he drinks will be adversely affected by water discharge from the Dos Republicas mine into Elm Creek, which will then be directly carried to the reservation. Unlike the City of Eagle Pass, the reservation and tribal members' home are sited directly on the banks of the Rio Grande River. As Native Americas, tribal members enjoy a close relationship with their land and obtain their sustenance directly from crops grown on the reservation, which are irrigated by waters from the Rio Grande River downstream from the Applicant's mining facility.

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**GROUND'S FOR RECONSIDERATION:** The Kickapoo Traditional Tribe of Texas has previously submitted public comment and questions regarding community concerns and widespread opposition to this permit. TCEQ has not obtained answers to such previously submitted questions and they are incorporated herein as if set out verbatim. The Tribe, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard are deeply concerned by the granting of TPDES Permit No. WQ0003511000 and the TCEQ's failure to obtain answers to previously submitted questions. Some of the points that have not been addressed due to the TCEQ's failure to conduct a CONTESTED HEARING include:

1. **POTENTIAL HARM IS NOT LIMITED TO THE AREA IMMEDIATELY SURROUNDING THE PROPOSED MINING OPERATIONS.**
  - a. ARID CONDITIONS CONSTITUTE SPECIAL HAZARD TO LARGER AREA. Dos Republicas has submitted no air modeling to address the issue of harm to the waterways that will result from the high wind and arid conditions (with periodic flash floods). These conditions will disperse both coal and normal dust over large areas absent special efforts at dust abatement. Dos Republicas has not

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submitted for consideration a dust abatement plan. Nor has it supported a water usage plan to evidence how a dust abatement plan would work. Without these plans and the air model showing where the dust is likely to travel, the affected area has not been defined and no attempt has been made to determine the actual impact on public waterways and health by either Dos Republicas or TCEQ.

- b. UNCOVERED TRAIN CARS. Dos Republicas admitted in the June 15, 2011 public meeting before the Railroad Commission of Texas that it will be transporting hundreds of uncovered coal train cars through the area surrounding Elm Creek and the Rio Grande River for 20+ years through the heart of the City of Eagle Pass and across the Rio Grande River with open train cars. This means that the area which coal dust will be affected is basically throughout Maverick County. This will bring Dos Republicas' coal dust in close proximity with all waterways and the lands, businesses and schools which are owned and/or attended by the Howards and Kickapoo and throughout the City of Eagle Pass in general.
- c. DISCHARGE INTO RIO GRANDE RIVER. On information and belief, Dos Republicas' parent company will process the dirty coal obtained from the mine located in Eagle Pass in Mexico and burn it across the river from the Kickapoo Reservation. The products of processing will drain into the Rio Grande River which is on Kickapoo land and the by-products of burning in Mexico without the benefit of pollution controls will directly pollute the air and water of the Rio Grande River. The City of Eagle Pass will be likewise impacted.

2. AUTOMATIC TERMINATION OF PERMITS. The Texas Natural Resources Code contains a mandatory termination clause that provides "...a mining permit will expire within three years of its issuance if the permit holder has not begun 'surface coal mining' operations by that date." Tex. Nat. Res. Code Ann. § 134.072(a). In previous litigation, an opinion was issued in *Railroad Commission of Texas and Dos Republicas Resources Co., Inc. v. Theodosia Coppock, et al.*, 215 S.W.3d 559 (Tex. Civ. App. – Austin, 2007). Though the permit was originally granted on this facility in 1992, surface coal mining operations still have not begun and are not expected to proceed until 2013.

- a. ADMISSION THAT NO "COAL MINING OPERATIONS" HAVE BEGUN. Dos Republicas publically admitted on June 15, 2011 at a meeting conducted by the Railroad Commission that the only activity that has taken place at the proposed

mining site since the granting of the Railroad Commission permit in 1992 has been the building of a pond during 2005. Since that time, neither Dos Republicas nor its successor have undertaken any mining operations. This admission was made by Mr. Pete Nielson, President of Camino Real Fuels, LLC. In fact, Mr. Nielson estimated that no mining operations will begin prior to mid-2013. Dos Republicas made a slide presentation at the June 15, 2011 public meeting. A slide reflecting this schedule is attached as Exhibit "1" (the handwritten notes are not part of the original slide and are not being offered into evidence). Mr. Nielson testified that the first thing Dos Republicas must do to prepare for mining operations, prior to building any roads, rails or facilities, is to control water. He says the second thing that must be done before mining operations can commence is the creation of collector ditches, surrounding the active mining operations, including the building of sedimentation ponds. The third thing identified by Mr. Nielson that Dos Republicas must do before beginning mining operations is to build the rail loop, road to the shop, coal handling facilities, office, shop, haul road. Then he would hire workers for the coal mining operations. The fourth stage would be the beginning of mining operations, which he testified would begin in the late second quarter of 2013. A slide summarizing that plan of action was shown to the public. See Exhibit "1". None of these actions have taken place.

- b. ~~TCEQ ACTION ON THIS APPLICATION IS PREMATURE/RAILROAD COMMISSION HAS GRANTED A CONTESTED HEARING.~~ The permit on the facility should have automatically terminated pursuant to the early termination provisions of the Texas Natural Resources Code. The Railroad Commission of Texas has granted a CONTESTED HEARING on whether the permit should issue. The TCEQ should do the same since a permit for discharge without a permit to operate would be inappropriate.

**PRAYER.** The TCEQ has all the justification it needs to deny the extension of the requested waste water and storm water permit on the basis of the early termination provision in the Texas Natural Resources Code. At a minimum, the TCEQ should provide evidence regarding the dust abatement plan, water usage plan and air and water modeling to demonstrate the level of hazard proposed by the site. The Kickapoo Traditional Tribe of Texas, City of Eagle Pass, Maverick County Hospital District, Mr. Anson Howard and Mr. Ryland Howard should be afforded the right to conduct discovery to analyze Dos Republicas evidence,

cross-examine Dos Republicas witnesses and present witnesses of its own. By not affording a CONTESTED HEARING, this right has been denied by the TCEQ. Therefore, the above referenced persons and entities requests that a CONTESTED HEARING be granted and the TCEQ RECONSIDER its previous ruling of August 1, 2011.

Respectfully submitted,

Elizabeth Burkhardt  
SBT #: 03415500  
9821 Shadow Wood Dr.  
Houston, TX 77080  
Phone: 832-922-2919  
Fax: 713-468-5932  
E-mail: [BurkhardtLaw@comcast.net](mailto:BurkhardtLaw@comcast.net)

Eddie Morales, City Attorney, City of Eagle Pass  
Signed by permission

*Celeste P. Lira*  
Celeste P. Lira  
Brin & Brin, P.C.  
6223 IH 10 West  
San Antonio, TX 78201  
Phone: 210-341-9711  
Facsimile: 210-341-1854  
E-mail: [clira@brinandbrin.com](mailto:clira@brinandbrin.com)  
Signed by permission *by perm.*

*Anson Howard*  
Mr. Anson Howard, signed by permission *by perm.*

*Ryland Howard*  
Mr. Ryland Howard, signed by permission *by perm.*

# Eagle Pass Mine Schedule

10000 Highway 20 East, P.O. Box 20000, Dallas, TX 75220

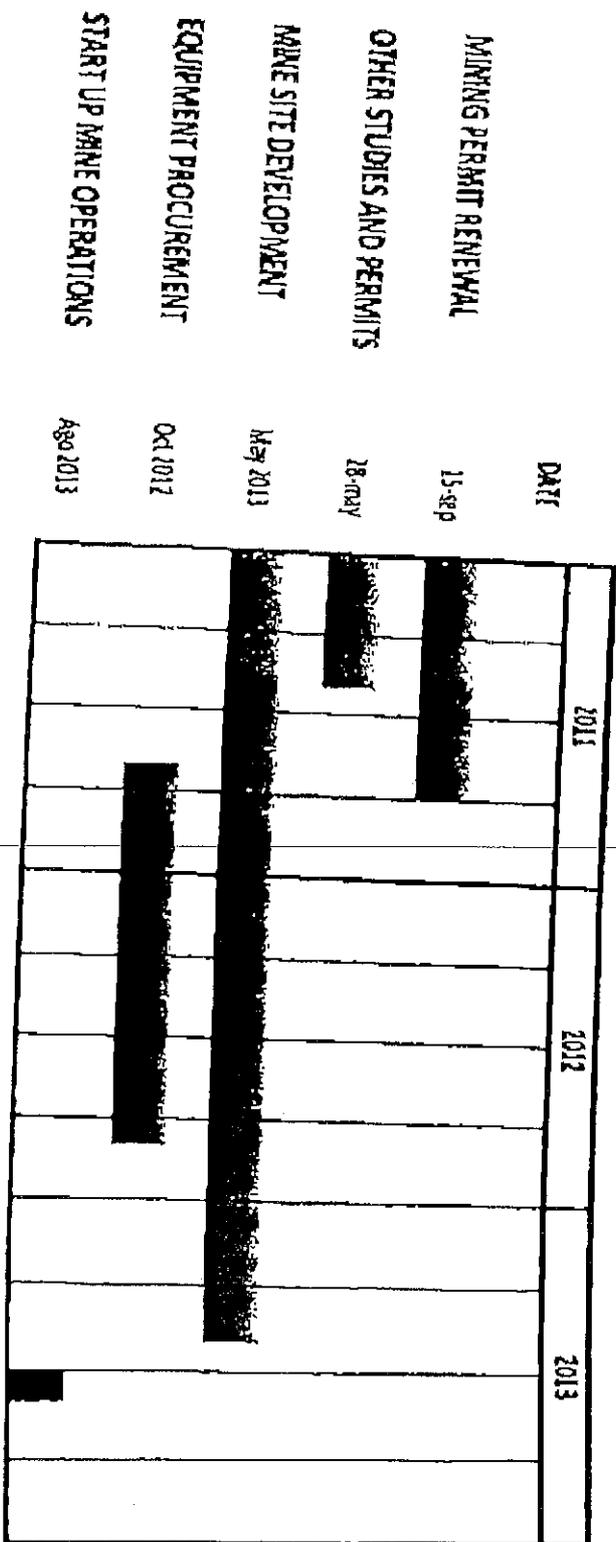


Exhibit "I"

*Would only see a small. Samples only.*

*Land in place. Vista field - when done - before*

*Commission would have a approval.*

**DRCP Eagle Pass Mine**

**TRADITIONAL  
COUNCIL**

**CHAIRMAN**  
Juan Garza, Jr., Kisiika

**SECRETARY**  
Jesus Anico, Chakodata

**TREASURER**  
Rogelio Elizondo, Apichicua

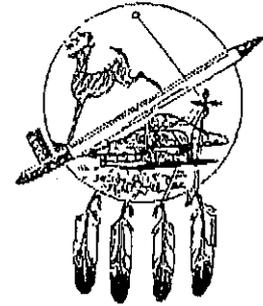
**MEMBERS**  
David J. Gonzalez, Kikekideah  
Nanate Hernandez, Nnaten

**KICKAPOO**

**TRADITIONAL  
TRIBE OF TEXAS**

HCR 1 Box 9700  
Eagle Pass, Texas 78852

LEGAL DEPARTMENT



*Traditional  
Council*

**FACSIMILE TRANSMISSION**

DATE: August 31, 2011  
RE:  
PAGES: 1 of 8

CHIEF CLERKS OFFICE  
2011 AUG 31 PM 4:50  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Melissa Chao, Acting Chief Clerk	(512) 239-3311

MESSAGE: Please note that this motion contains additional parties joining the motion as well as Exhibit "I".

**KICKAPOO TRADITIONAL TRIBE OF TEXAS'**  
**REQUEST FOR A CONTESTED CASE HEARING AND MOTION TO RECONSIDER ORDER OF**  
**THE TCEQ EXECUTIVE DIRECTOR DATED AUGUST 1, 2011 RE: APPLICATION AND**  
**PRELIMINARY DECISION FOR WATERQUALITY TPDES PERMIT RENEWAL FOR**  
**INDUSTRIAL WASTEWATER, TPDES PERMIT NO. WQ0003511000**

**CONFIDENTIAL**

The information contained in this transmission is confidential and intended for the stated recipient(s). If you receive this transmission in error, please dispose of it and do not disburse its contents.

Done formal or e comment  
~~Done~~ Submitted written comments

2

# TCEQ Public Meeting Form

IP 160176

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

PLEASE PRINT

Name: Heriberto Morales, Jr.

Mailing Address: 401 Quarry St.

Physical Address (if different): \_\_\_\_\_

City/State: E. P. Zip: 78852

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: \_\_\_\_\_

Phone Number: (830) 773-6700

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? City of Eagle Pass

Please add me to the mailing list. ✓

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

CHIEF CLERKS OFFICE

JAN 31 PM 4:42

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*Handwritten initials/signature*

Please give this form to the person at the information table. Thank you.

Introduce. Proposed to DR by City of E.P.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2011 JAN 31 PM 4:43  
CHIEF CLERKS OFFICE

- ① #8 = Describe the chemicals you plan to use?
- ② #13 What is periodically?
- ③ #16 - Response conflicted w/ #10. TCEQ comment?
- ④ #22 - Inform WW of violations immediately?
- ⑤ #19 - What test is the standard you are using?
- ⑥ Will TCEQ consider the issue of the use of coal in MX, right across E.P.

HR  
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JAN 25 2011  
AT PUBLIC MEETING

~~TCEQ:~~

~~Briggs-Batchelor Facility~~

- ⑦ - Can ~~you~~ <sup>DR</sup> guarantee ~~low~~ <sup>Source</sup> water ~~will~~ <sup>will</sup> never be ~~consumed~~ <sup>consumed</sup> by DR's operations?
- ⑧ - If there is a potential for ~~contamination~~ <sup>contamination</sup>, what alternatives can be offered to the City/Citizens?
  - Water intake pump upriver ??? (3 miles currently from Elmer Lake)
  - Will DR pay for construction?
- ⑨ - Our state-of-the-art water treatment plant possesses 2 days reserves ONLY. Will TCEQ consider that in evaluating the permit??
- ⑩ ~~Don't you want to know how your coal will be used & where?~~  
 \*\* Will the additional coal consumption by PN electric plant cause environmental ~~air~~ <sup>air</sup> quality violations?  
 - ~~Accumulation of coal loads at similar water treatment in Mex. Factor?~~

MW

)

AT PUBLIC MEETING

~~(11) Does DR Do you operate a similar mine within geographic area to show us how effectively they can operate mines?~~

(12) Will the revegetation of top soil be to Sabine mine standards or you will only do native vegetation to Maverick County ~~standards~~?

(13) Lisa said they performed lots of testing on detention ponds. How ~~can we~~ can we be assured that the ~~correct~~ <sup>correct</sup> chemical tests <sup>will</sup> be performed?

(11) Does DR operate other mines with ~~the~~ same geographic conditions? What is their track record there?

I hereby request a Contested Case hearing on behalf of the City of Eagle Pass, TX.



2011 JAN 31 PM 4:43  
CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**OPA RECEIVED**

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

JAN 25 2011

From Charles R. Roberts

2011 JAN 31 PM 4:42

**AT PUBLIC MEETING**

CHIEF CLERKS OFFICE

Dear John,

Thank you for your presentation on the DRCP mining project. Your information is very helpful to the City in evaluating the DRCP matter, but after discussion among the Council and Mayor, in executive session, a number of questions have arisen. Hopefully, you will readily be able to answer many of them before the 25<sup>th</sup> public meeting. They would like for you to provide me your answers by e-mail by Friday, so that I can forward them to the group. In no order of importance, the questions are:

1. How will DR dispose of sediment in the holding ponds? Will the holding ponds be "cleaned out" periodically? Are they constructed to withstand a flood and to accommodate "excess" storm/rain water?

The Railroad Commission of Texas (RCT) regulations require that the sedimentation ponds be designed for a 10-year, 24-hour precipitation event. The 10-year, 24-precipitation event in the mine area is considered to be 6.0 inches, and that value was used to determine the watershed runoff volumes and peak flows. The regulations also require that sedimentation ponds be designed to: "provide adequate sediment storage volume. The minimum sediment storage volume shall be equal to the three year accumulated sediment volume from the drainage area to the pond. The sediment volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume, using either the sediment density or other empirical methods approved by the Commission." 16 TAC §12.344(c)(1)(C)(i) When it is determined that the sedimentation pond needs to be cleaned-out, sediment volume is measured, evaluated, and reported to the state annually. The sediment removed from the pond will be placed in the bottom of the mining pit. Please remember the sediment or dirt that settles out in the sedimentation ponds is the same material that is in the ground.

2. How will impurities in the water above the allowed limits be removed? Specify each method to be used.

This depends upon the specific "impurity" at issue. The primary "pollutant" of concern is suspended solids, or what commonly may be called dirt or sediment. By allowing the water to go to a sedimentation pond and not go directly to a stream, the still water allows sediment or dirt to settle out or fall to the bottom of the pond. Sedimentation ponds are designed specifically to promote sedimentation. However, in those cases where the sediment is not settling sufficiently, flocculants or coagulants may be added to help the soil particles bind or stick together so they become heavy enough to settle. The flocculants or coagulants used in this process bind to the sediments and do not add pollutants to the water.

3. How will storm water runoff from the project area be controlled?

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First, some storm water is diverted so that it does not enter the disturbed mine areas. Diversion ditches or other diversion structures are constructed to collect and route runoff water away from the mining and coal handling areas. Second, RCT regulations require that any precipitation (i.e. stormwater runoff) that occurs within or will travel across disturbed areas within the permit boundary must be directed to a sedimentation pond. The water that enters the sedimentation ponds cannot be discharged by DRCP unless and until it meets the TPDES permit effluent limits, and monitoring is conducted to ensure that the limits are met. Please see the maps and other information contained in the RCT permit application regarding the location of the diversion ditches and sedimentation ponds. (See section 12.148). A copy of the RCT permit application (16 3" binders) can be found either at the RCT's offices in Austin or at the Maverick County Clerk's office. A copy of the TPDES permit application can be found at the TCEQ's offices in Austin or at the Maverick County Courthouse, 500 Quarry Street, Suite 2, in Eagle Pass.

4. How certain is DR that ponded wastewater will not leach into the earth, thence to the water supply?

The sedimentation ponds are designed to collect the water so that sediment can be dropped out. However, it is possible that some of the water will seep through the bottom of the ponds. Again, please remember that the material that goes into the sedimentation ponds is essentially just rainwater run-off that has picked up some sediment. This is really no different than rainwater that hits the ground and seeps through the soils currently. To the extent the City uses underground water sources for its water supply, based on baseline studies performed at the mine site, there is "no communication" between the shallow surface mining operation and the potable aquifer(s).

5. Do you have a flood map of the area showing the natural flow? If so, can it be made available now? At the 25<sup>th</sup> meeting?

I do not have a flood map of the area. This map is available in various views and scales on the Texas Water Development Board website: FEMA Map Service Center for Texas, Maverick County.

6. DR will have water lines for "new" water and "reuse" water, but are there capacity problems in heavy rains and/or storms?

---

I do not understand this question. The water lines for both potable and reuse water are entirely enclosed and should not be impacted by rain or storms.

---

7. How will potential overflow of holding ponds be handled?

The sedimentation ponds are required to be designed to contain a 10-year, 24-hour precipitation event. Typically the sedimentation ponds are conservatively designed and exceed the regulatory requirements. However, if a greater precipitation event occurs it is possible that a sedimentation pond could overflow. Typically if the operator knows that there will be several heavy rainfall events likely to occur in a short time, he will try to discharge as much as possible from the sedimentation ponds that meets the effluent limits as he can to make more room available for the

**OPA RECEIVED**

JAN 25 2011

**AT PUBLIC MEETING**

~~next rainfall event. Please also keep in mind that typically the lowest place in a surface mine is~~  
the pit where the active mining is occurring. Thus, it is possible that water can collect in the pit. The water collecting in the pit would be pumped to a sedimentation pond that has capacity to hold the water. The ponds are not designed to necessarily handle a tropical storm that stalls out in the area and causes wide spread flooding. If such flooding occurs, the water coming from the mine will be just a small percentage of the overall flood waters and will not affect the water quality since the flood waters will generally be picking up lots of sediments from other sources than the mine. I believe the RCT and TCEQ consider these *force majeure* or "Acts of God" events for which the permit holder is not responsible.

8. What, if any, of the expanded project area is in a flood plain - - and how will the plain be protected from introduction of harmful sediment and/or "chemicals" into it? What remediation program does DR have?

I believe I again need to emphasis that the mining process simply removes the coal that exists in the ground, and it is not a manufacturing or chemical process. The dirt (top soil, overburden and interburden) is placed back into the ground once the coal is removed. The "chemicals" that will be used on site are those related to the operation and maintenance of the equipment used to move the dirt and the coal. Thus, there will be gasoline, oil and lubricants used for the mining equipment (primarily trucks, shovels, and bulldozers) exactly like you would have at a typical construction site. Any accidental spills or leaks will be cleaned up in accordance with applicable regulations and the mine sites spill prevention control and countermeasure plan. There also may be dust suppressant chemicals added to rock access roads to suppress dust. Those chemicals are environmentally safe. The sediments that are captured by the sedimentation pond should not be harmful - they are just comprised of materials naturally found in the dirt.

What  
chemicals  
described?

9. What are the volume of expected wastewater into the holding ponds and any given time? What is the projected volume of expected discharges of wastewater? Where will any discharge go? Will it be hauled away? Piped? Discharged into a ditch?

See the RCT permit application for the watershed calculations as they relate to each of the proposed sedimentation ponds. The amount of water that enters into the sedimentation ponds is largely controlled by rainfall events. See also the RCT permit application Section 12.131 for historical climatology data. Each sedimentation pond is designed to contain at least a 10-year, 24-hour precipitation event. It is expected that some of the water that collects in the sedimentation ponds will either evaporate or be used to suppress dust from the roads within the mine area. The discharge point for each of the sedimentation ponds is indicated in the TPDES permit application. In general terms, water discharged from a sedimentation pond will enter a ditch that eventually leads to Elm Creek. Elm Creek in turn flows into the Rio Grande River. Please keep in mind that the quality of water being discharged from the sedimentation ponds will be of better quality than the water contained in the Rio Grande River.

All sedimentation ponds proposed for this permit area are temporary impoundments. These impoundments are designed to contain, at a minimum, the runoff resulting from a 10-year, 24-hour precipitation event, plus an estimated sediment volume projected to accumulate over a 10-year period. Non-Mine Safety and Health Administration (MSHA) ponds are designed to contain

ORA RECEIVED

JAN 25 2011

AT PUBLIC MEETING

~~emergency spillway capable of passing the peak discharge resulting from a 25-year, 6-hour precipitation event, or a larger event dictated by alternative design criteria, is utilized to design principal and emergency spillways for MSHA-regulated impoundments. The design height of all embankments includes a five percent allowance for settling, while no side slopes are steeper than 3H:1V. Spillways are located in relation to diversion inlets such that short circuiting will be minimized.~~

10. The permit requires periodic "grab samples" of the wastewater - - what sampling will DR do of the sediment in the ponds?

The TPDES permit authorizes the release of water than meets the effluent limitations. It does not pertain to the sediment. DRCP will not sample the sediment in the ponds. When sediment is removed from a sedimentation pond, it will be placed back in the bottom of a mining pit. This is just returning the same materials back to the ground where it came from.

11. Will DR use dilution of the wastewater to bring manganese and iron (and other elements) to within acceptable levels under the Permit?

No. Dilution is prohibited as a "treatment" method. If required, the water in the sedimentation ponds will be treated. Treatment might be by flocculation or coagulation to promote settling of the sediments which may contain naturally occurring iron and manganese and other elements. Another treatment method of removing iron and manganese is by means of passive, aerobic methods such as cascading the water going into a pond over limestone rocks. The iron and manganese adheres to the rocks and is removed from the water.

12. Does DR have a "pure" water source now in hand?

DRCP has a contract with the City of Eagle Pass Water Works System (EPWWS) under which the EPWWS is required to provide potable water to DRCP. As part of that contract, DRCP transferred some Rio Grande water rights to EPWWS for the duration of the mining activities and the time that EPWWS is obligated to provide potable water. Potable water will be used primarily for employees in the offices.

13. Use of Elm Creek for discharge of the wastewater is a concern, so what assurances can DR give that any water introduced into Elm Creek will not be of a poorer quality than the water in the Rio Grande River or the area surface water generally?

The discharge limits set in the TPDES permit are designed to be protective of the environment and health including Elm Creek and the Rio Grande River. DRCP is not authorized to discharge water from the sedimentation ponds above the limits set in its TPDES permit. As to how the effluent limits are established by the State, I suggest asking that question of the TCEQ representatives during the January 25<sup>th</sup> public meeting. However, in general terms the TCEQ does a very specific and detailed analysis regarding what the allowed discharge limits are. Furthermore, the TCEQ is required by federal law to periodically review the water quality of the receiving streams and to re-evaluate the appropriate discharge limits to a particular

What is periodically?

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JAN 25 2011

AT PUBLIC MEETING

~~my understanding that the water discharged from the sedimentation ponds will be of a higher quality than the water found in the Rio Grande River.~~

14. How will DR test for and control (eliminate) calcium, arsenic, mercury and sulfates?

As explained earlier, the primary "pollutant" of concern is sediments that are picked up by rainwater runoff. The constituents expected to be present in the runoff water are suspended solids, iron, manganese and selenium and those are the constituents that are required to be monitored under the TPDES permit. The water collected in the ponds will not be discharged unless the water meets the effluent limits specified in the permit. DRCP will not test for calcium, arsenic, mercury or sulfates, and they are not expected to be found in the rainwater runoff collected in the sedimentation ponds.

15. What other contaminants or constituents may there be in the water held in the ponds? How will they be removed or taken to the allowed level?

Please see the response to question No. 14. The constituents expected to possibly be present in the water collected in the ponds are suspended solids, iron, manganese and selenium, which are naturally occurring.

16. What assurances can be given that DR will comply with the Permit?

By law, DRCP is required to comply with its various permits including the TPDES permit. The regulatory authorities issuing the various permits for the mine, such as the RCT and the TCEQ, have the authority to enforce the terms of the permits. Those agencies have inspection powers and enforcement powers. The enforcement actions can include the issuance of penalties and in some cases would allow the regulatory authority to halt operations at the mine. The RCT is required to perform an inspection of the mine site on average once per month. The Office of Surface Mining is also required to perform inspections at the mine. The TCEQ has the authority to inspect the site for compliance. Furthermore, DRCP is required to take samples of the water when it is discharged from the sedimentation ponds. All results must be reported to the applicable agency(ies). DRCP is also required to self-report any discharges that exceed the effluent limitations specified in the TPDES permit.

DRCP has also contracted with an experienced mining company that has extensive experience in operating various mines including lignite and coal mines in Texas. DRCP has contracted with Camino Real Fuels L.L.C, (CRF) a wholly owned subsidiary of The North American Coal Corporation (NACC), to be the operator of the Eagle Pass Mine. NACC is one of the largest coal and lignite mining companies in the United States and has lots of experience operating mines. NACC has an excellent track record for operating mines. Please see the information contained in the RCT permit application on NACC's mining record in Section 12.116. The RCT also reviews the operator and owner and their past compliance records through what is termed the Applicant Violator System (AVS) to make sure the owner/operator do not have a history of operating problems. Additionally, the RCT is required to approve any change of operator.

**OPA RECEIVED**

JAN 25 2011

**AT PUBLIC MEETING**

#16  
Conflicted  
w/ #10

~~17. Has N.A. Coal Company been warned/cited for violations in any of its other mining sites?~~

NACC has an excellent mining record. Please see the information contained in the RCT permit application on NACC's mining record in Section 12.116, a copy of which can be found in the Maverick County Clerk's office.

18. If so, where and, generally, what was the problem cited?

Please see the answer to No. 17 above.

19. Is DR depending upon Elm Creek water to dilute the wastewater from the mine to an acceptable level of contaminants under the permit? How will Elm Creek be disturbed by DR's operations? Is there any monitoring or remediation program for it?

No, DRCP is not relying on Elm Creek to dilute the water discharged from the sedimentation ponds. No permit for the diversion of water from Elm Creek has been requested. As mentioned previously, the discharge limits established in the TPDES permit are designed to be protective of the environment and Elm Creek. The effluent limits must be met prior to the water being discharged. The water that will be discharged is of a higher quality than is water in the Rio Grande River. That portion of Elm Creek that passes through the mine area, plus a 400 foot protective corridor, will not be mined by DRCP.

- what test is your standard?

20. How many local persons will DR hire for work on the project?

It is anticipated that approximately 40 professionals will be used at the site -- such as mining engineers. It is also anticipated that around 100 to 160 other workers, like equipment operators, electricians, welders, mechanics, etc., will be employed at the site. It is expected that the number of workers required will be lower at the start of operations, but will gradually increase as the project continues. CRF hopes to hire most of the work force from qualified people from the local area.

21. What will be the pay scale for these people?

It is my understanding that CRF will pay the work force the going wages for similar jobs in mines in Texas.

22. Is DR "ready" now to begin mining the coal or are other issues remaining? What issues? Estimated date when the first coal will be mined?

Currently, DRCP is in the process of having its TPDES permit renewed and having its Surface Mining and Reclamation Permit renewed and amended. The timing on the issuance of those permits is controlled by the applicable agencies, TCEQ and RCT. However, it is hoped that those permits will be issued during the first half of 2011. At the same time as these permitting actions are proceeding, CRF and other companies are working on the design for the various facilities that will be built. Once the permits are issued then construction can begin.

**OPA RECEIVED**

JAN 25 2011

**AT PUBLIC MEETING**

*Inform water works of violations*

~~estimates are that the construction will take approximately 18 months to complete. Once construction has been completed then the mine would be ready to begin operations.~~

23. Are DR's sales contracts in place? Will burning at the MICARE plant cause pollution in the area of Eagle Pass? Has DR studied this potential problem?

It is my understanding that DRCP has contracts to sell coal to MICARE and that in turn MICARE has contracts to sell coal to the federal power authorities in Mexico - Comision Federal de Electricidad (CFE). It is also my understanding that the coal supplied from the Eagle Pass mine would be added to other coal that MICARE has available to it and that it would be part of the coal that MICARE sells to CFE. The CFE plants are operated from coal received from several sources, of which MICARE is only one supplier. DRCP does not have anything to do with the operation or permitting of the CFE power plants. Thus, DRCP has not studied the air pollution that is emitted by CFE's power plants and whether that pollution impacts Eagle Pass. I do not believe DRCP's sale of coal from the Eagle Pass area to MICARE controls whether the CFE plants operate.

24. Who are the partners in DR? Who will manage the operation? Who is AMSA (give details)

DRCP is a Texas general partnership. It has two partners, Maverick County Coal Corporation and Eagle Pass Coal Corporation, both Texas corporations. As mentioned previously, DRCP has contracted with CRF to operate the mine. Altos Hornos De Mexico, S.A.B. de C.V. (AHMSA) is one of the companies in the chain of ownership of DRCP. Please see the ownership or control chart that is contained in Section 12.116 of the RCT permit application.

Please understand that surface mining in Texas is extensively regulated by various state and federal regulatory agencies. It is regulated to allow for the production of a valuable energy source, but also in such a way that the mining operations are conducted in a manner that is safe for the environment and for the health of people in surrounding communities. DRCP and its operator fully intend to comply with the applicable laws, regulations, and permits and be a company that is a good fit with and accepted by the local community.

John, the answers you provide me will be extremely helpful to the City. As you now know, the citizens need accurate information on this matter, and the Mayor, et al. are anxious to answer the public's questions. ~~Hopefully, your response will serve to shorten the public meeting of January 25 and move the process along.~~

Many thanks,

Charles R. Roberts  
LANGLEY & BANACK, INC.  
San Antonio Office  
Trinity Plaza II  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212

**OPA RECEIVED**

JAN 25 2011

**AT PUBLIC MEETING**

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Phone: (210) 736-6600

Fax: (210) 735-6889

2011 JAN 31 PM 4: 43

CHIEF CLERKS OFFICE

**OPA RECEIVED**

JAN 25 2011

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**AT PUBLIC MEETING**

Jim and Rosa O'Donnell  
HC 2 Box 194  
Eagle Pass, TX 78852  
830-773-3081

H  
BY HL  
OPA  
AUG 25 2011  
1WD  
72370

August 23, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 25 AM 9:51  
CHIEF CLERK'S OFFICE

RE: Application by Dos Republicas Coal  
Partnership for TPDES Permit  
No. WQ 0003511000

Dear Ms Chao,

We are requesting that a  
contested case hearing be held for  
the proposed renewal of TPDES  
Permit No. WQ 0003511000 to

Dos Republicas Coal Partnership (DRCP).

We live very close to the  
proposed coal mine and currently  
we have party status before the  
Railroad Commission of Texas (RRC).  
For twenty years we have  
participated in all contested

CM

contested hearings concerning the Eagle Pass Mine before TCEQ and RRC.

Some of our concerns are listed below:

1. Water - Our only source of water comes from the Maverick County Water Control and Improvement District No. One (MCWCID No. 1) through Canal Lateral 20, which is one of the tributaries of Elm Creek. Although, we don't drink the water, it is our principle source of water that allow us to bathe, to water pecan trees, vegetable and flower gardens, to give water to our pets, and for all household use.

2. Health - We are very concerned of the coal dust and toxins that will settle in the Canal Lateral and the Elm Creek. My husband suffers from a very aggressive skin cancer. After several surgeries and radiation, he has been receiving weekly chemotherapy treatments since July 2010 and the treatments are to continue indefinitely. My husband's health is already compromised and any additional

~~advised environmental contaminants~~  
will only exacerbate his condition.

3. Comment 22, page 21 of the Executive Director's Response to Public Comment - TCEQ's reply to my comment mentions that Industrial wastewater permits are developed using National effluent limitation guidelines. National does not cover the Mexican Border Area where we are already experiencing so much pollution and contamination; and where state Agencies seem to forget that we exist. Maverick County is now experiencing a severe drought that would only allow all toxins, chemicals, etc to settle on the Canal Lateral and the Elm Creek causing a catastrophe when the rain comes and floods the area.

4. Wildlife and Endangered Species - Elm Creek is a riparian corridor to all kinds of wildlife (birds, deer and the endangered ocelots and Jaguarundi). We (my husband and I) were privileged to see a Jaguarundi crossing Thompson

Road along the Elm Creek from the Jimenez Property into Tract 8 (now owned by DRCP and used as entrance to the permit area). Unfortunately, soon after our sighting, DRCP constructed a road very close to the Elm Creek where we saw the Jaguarundi and may have damaged some of its habitat. We did report our sighting to the U.S. Fish and Wildlife.

5. Expansion of the Permit - The original permit transferred to DRCP in 2008 was for an area of 2700 acres but the expansion being proposed is for an area covering 6,346 acres, almost three times the original size. We believe this will have a very damaging environmental effect on Elm Creek and on Canal Lateral 20, our sole source of water. The applicant has zero environmental violations because it has never owned or operated a coal mine in Texas but it has a very dismal record in Mexico where it has owned and operated coal mines

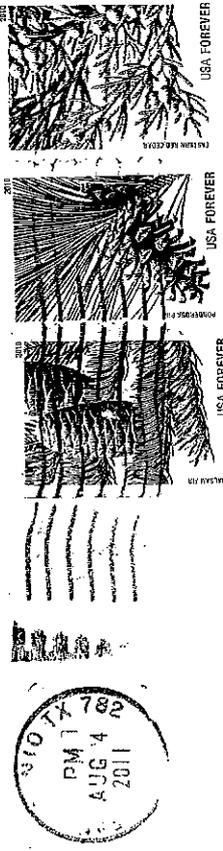
for years. Those of us who live in the border to Mexico are very aware of all the damage caused by their coal mines.

We respectfully request that a contested hearing be granted and that we are granted party status.

Sincerely,

Rosa M. O'Donnell Jim O'Donnell

  
Jim & Rosa O. Donnell  
HC 2 Box 194  
Eagle Pass, TX 78852



*Melissa Chao, Acting Chief Clerk*  
*TC EQ, MC-105*  
*P.O. Box 13087*  
*Austin, Texas 78711-3087*

**RECEIVED**  
**AUG 25 2011**  
**TC EQ MAIL CENTER**  
**AJ**

787113087



Done formal oral comment @

1P 160205

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2011 JAN 31 PM 4:47

CHIEF CLERKS OFFICE

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal for Industrial Wastewater, No. WQ0003511000

PLEASE PRINT

Name: ROSA O'DONNELL

Mailing Address: HC 2 BOX 194

Physical Address (if different): COUNTY RD 307 #116

City/State: EAGLE PASS TEXAS Zip: 78852

**\*\*This information is subject to public disclosure under the Texas Public Information Act\*\***

Email: \_\_\_\_\_

Phone Number: ( 830 ) 773-3081

• Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? MYSELF (MY HUSBAND AND NEIGHBORS)

Please add me to the mailing list. ✓

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

*mw*

Done formal or ? comments (18)

1P160203

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

## Dos Republicas Coal Partnership Proposed Water Quality TPDES Permit Renewal For Industrial Wastewater, No. WQ0003511000

PLEASE PRINT:

Name: Martha M. Ramirez

Address: P. O. Box 2020

City/State: Eagle Pass Texas Zip: 78852

Phone: (830) 752-8564

Please add me to the mailing list. ✓

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

### IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments. ~~\_\_\_\_\_~~

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted any time during the meeting)

*See back*

CHIEF CLERKS OFFICE

2011 JAN 31 PM 4:46

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Please give this to the person at the information table. Thank you.

*MW*

I am ~~the~~ against the establishing  
of any coal company in the Maverick  
County area or surrounding areas.

**OPA RECEIVED**

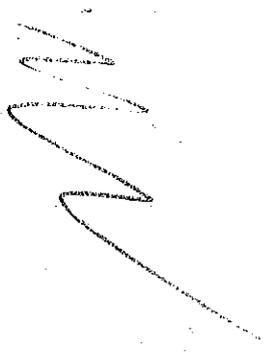
JAN 25 2011

**AT PUBLIC MEETING**

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2011 JAN 31 PM 4:46

CHIEF CLERKS OFFICE



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2011 JAN 31 PM 1:10

CHIEF CLERKS OFFICE

OPA RECEIVED

Office of the Chief Clerk  
MC 105  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087

2011 JAN 31 PM 4:46  
CHIEF CLERKS OFFICE

JAN 25 2011

AT PUBLIC MEETING

RE: TPDES PERMIT WQ0003511000, DOS REPUBLICAS COAL PARTNERSHIP

Dear Sir or Madam:

*My name is Martha M. Ramirez*

I respectfully request party status, a contested hearing, and be added to the official mailing list regarding Dos Republicas Coal Partnership application to renew TPDES Permit WQ0003511000 with the Texas Commission on Environmental Quality.

I am a citizen of Eagle Pass, Maverick County, Texas and reside at

*548 County Road Route 501 Eagle Pass TX 78853  
(P.O. Box 2020) My name is Martha M. Ramirez*

I oppose the renewal of TPDES Permit WQ0003511000 for the following reasons, including but not limited to:

- WJM* ✓ 1. (The discharge of industrial waste, mine seepage, and storm waters daily into Elm Creek and the Rio Grande River) which will include manganese, selenium, iron, suspended solids, aluminum, antimony, arsenic, barium, beryllium, copper, cyanide, lead, mercury, nickel, silver, zinc, bod, carbonaceous biochemical oxygen, chemical oxygen, organic carbon, ammonia nitrogen, nitrate nitrogen, phosphorous, oil and grease, residual chlorine, total dissolved solids, sulfate, chloride, fluoride, fecal coliform, coal, and other chemicals will affect and contaminate the public water supply of the City of Eagle Pass and Maverick County, Texas. Many of these chemicals are carcinogenic to humans, livestock, agriculture, wildlife, and aquatic life. *7765th Causeway*
2. (The City of Eagle Pass Water Works and Sewer System provides 95% of Maverick County citizens their public water supply.) The City of Eagle Pass Water Works and Sewer System draws its public water supply from the Rio Grande River. The Elm Creek is a direct tributary of the Rio Grande River. The City of Eagle Pass water pump on the Rio Grande River is downstream (south) from where the Elm Creek empties into the Rio Grande River. The City of Piedras Negras, Coahuila, Mexico, which has a population of approximately 300,000 residents, public water supply pump is also downstream (south) of Elm Creek. The City of Eagle Pass has a population of approximately 35,000 people while Maverick County has a population of approximately 60,000 people. Our sole source of public water supply is the Rio Grande River;

*MWR*

Martha M Ramirez  
P.O. Box 2020  
Eagle Pass tx 78853

3. Texas and Mexico border communities on the Rio Grande River downstream of Eagle Pass such as Laredo and Nuevo Laredo, Tamaulipas, Mexico, and Zapata and Presa Falcon, Tamaulipas, Mexico, Roma and Ciudad Miguel Aleman, Tamaulipas, Mexico, Rio Grande City and Ciudad Camargo, Tamaulipas, Mexico, McAllen and Reynosa, Tamaulipas, Mexico, and Brownsville and Matamoros, Tamaulipas, Mexico public water supplies will also be affected and contaminated by the Dos Republicas Coal Partnership coal mine discharge of industrial waste, mine seepage, and storm waters into the Rio Grande River;
4. The daily discharge of industrial waste, mine seepage, and storm waters will also affect subsurface streams, aquifers, water wells, and water in the Maverick Basin and Zacatosa Acquirer through seepage and contaminate these precious and valuable underground water resources which also benefit the Rio Grande River.
5. Within a mile of the proposed Dos Republicas coal mine (as the crow flies), there are thousands of Maverick County residents living in adjacent subdivisions ranches such as Thompson Road (FM 1588), Elm Creek Subdivision, South Elm Creek Subdivision, Deer Run Subdivision, Siesta Acres Subdivision, Seco Mines Subdivision, La Fabrica Subdivision, Eagle Point Ranch, Hopedale Subdivision, The Village at Hopedale Subdivision, Kypuros Road Subdivision, Coahuila Subdivision, Weyrich Farms, Radar Base, and Hopedale Estates. All of these Maverick County residents will be affected and contaminated by the Dos Republicas Coal Partnership coal mine through coal dust and particles in the air, dirt and related chemicals in the air, dynamite blasting, shockwaves from dynamite blasting, mining heavy equipment traffic driving up and down FM 1588 (Thompson Road), dust in the air created by the heavy equipment traffic, oil and grease from the mining heavy equipment and vehicles, the daily noise and pollution of the mining heavy equipment and vehicles, and the noise, vibration, shockwaves, and tremors of the railroad cars and engines transporting daily 90 to 100 trainloads of coal out of the coal mine site into Mexico or elsewhere;
6. Within a mile of the proposed Dos Republicas coal mine (as the crow flies), there are thousands of school children attending, studying, and playing at such schools as Pete P. Gallego Elementary, Seco Mines Elementary, Teaching and Mentoring Communities Head Start School (formerly Texas Migrant Council), and Lighthouse Academy. The Dos Republicas coal mine will affect and contaminate all of these young and innocent school children for all the reasons stated herein;
7. There are seismic faults in the Maverick Basin geological formation in Maverick County Texas, which will be affected by the Dos Republicas coal mine. According to the U.S. Geological Survey, Maverick County is prone to earthquakes with the last earthquake in Maverick County occurring on April 13, 2005 measuring 3.5 magnitude on the Richter Scale. Maverick County also was affected by another earthquake on April 7, 2008 in Falls City, Texas, a measuring 3.7 magnitude on the

Martha M. Ramirez

P.O. Box 2020

Eagle Pass TX 78853

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Richter Scale whose tremors were felt in Maverick County. According to Geologists, the Rio Grande River is considered a seismic fault, too. Maverick County's seismic faults and activity will be affected by the Dos Republicas coal mine endangering thousands of human lives.

8. The Dos Republicas Coal Partnership coal mine site is on the banks of Elm Creek, a direct surface water tributary of the Rio Grande River. Both the Elm Creek on the proposed Dos Republicas coal mine site and the Rio Grande River often flood due to heavy rains in Southwest and West Texas.

The most recent flood occurred during July 5-7, 2010, when Elm Creek waters jumped its banks and into surrounding areas causing FM 1588, Hopedale Road, and Highway 277 North to be closed as floodwaters reached onto the highways as it traveled downstream into the Rio Grande River.

The Rio Grande River also flooded during July 5-8, 2010, cresting at 35.3 feet above floodstage almost reaching the top of the City of Eagle Pass International Bridges Nos. 1 and 2. The July 5-8, 2010 flood of Elm Creek and the Rio Grande River caused damages to many Eagle Pass homes and residents, particularly near the Dos Republicas coal mine site and surrounding area.

The July 5-8, 2010 flood of the Elm Creek and the Rio Grande River traveled downstream to the City of Laredo and Nuevo Laredo, Tamaulipas, Mexico, flooding these cities and causing severe damages to tons of thousands of residents and businesses.

The Dos Republicas coal mine site is in the direct path of Elm Creek and other creeks floodwaters which wash downstream into the Rio Grande River where the City of Eagle Pass and Piedras Negras, Coahuila, Mexico public water supply pumps siphon water from the Rio Grande River for public consumption. Any floods of the Elm Creek and other creeks and the Rio Grande River will affect the public water supply of Eagle Pass and Piedras Negras, Coahuila as all the Dos Republicas coal mine industrial waste, mine seepage, and storm waters flow into Elm Creek and the Rio Grande River. The Dos Republicas coal mine boundaries or parts thereof are within the 10 year and 100 year flood plains of Maverick County.

Most importantly, man has yet to invent a strip coal mine that hasn't leaked and seeped, leached, or flooded both the underground water, streams, and aquifers as well as the surface water. All strip coal mines, leak, seep, and leach their carcinogenic chemicals, mine seepage, storm waters, and acid drainage to both surface and underground waterways. The Dos Republicas coal mine is no exception. The Dos Republicas coal mine is destined to leak, seep, leach, and flood the Elm Creek, the Rio Grande River, the Maverick Basin, the Sacatosa aquifer, and all underground water wells and rivers.

( The State of Texas by and through the Texas Commission on Environmental Quality will unleash a catastrophic public health disaster upon the residents of Eagle )

Martha M. Ramirez  
P.O. Box 2020  
Eagle Pass TX 78853

---

Pass and Piedras Negras, Coahuila and all Texas-Mexico Border communities  
downstream on the Rio Grande River for many generations to come) if it renews Dos  
Republicas Coal Partnership TPDES Permit WQ0003511000.

Just ask yourself, would the City of Austin, Texas and Travis County allow  
TCEQ to renew a permit similar to Dos Republicas coal mine project discharging  
industrial waste, mine seepage, and storm waters into the Colorado River, Lake  
Travis, and Barton Springs? I don't think so and neither would you, the TCEQ. Eagle  
Pass and Maverick County are no different than Austin and Travis County. Please do  
not insult our intelligence and commit the unthinkable of renewing the Dos  
Republicas Coal Partnership permit.

Sincerely,

Martha M. Ramirez  
P.O. Box 2020  
Eagle Pass TX 78853  
(830) 752-8564 cell  
(830) 758-7632 home

---

Here for oral comments (17)

IP 160202

# TCEQ Public Meeting Form

Tuesday, January 25, 2011

*Go Away Coal Mines!!*

Dos Republicas Coal Partnership

Proposed Water Quality TPDES Permit Renewal

For Industrial Wastewater, No. WQ0003511000

OPA RECEIVED

AT PUBLIC MEETING

PLEASE PRINT:

Name: MARTHA S. RAMIREZ

Address: P.O. Box 2020

City/State: Eagle Pass, TX Zip: 78853

Phone: ( ) \_\_\_\_\_

Please add me to the mailing list. ✓

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

I wish to provide formal oral comments.

I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted any time during the meeting)

*I want to contest the case because it will pollute our water & affect our overall health and that of our future generations.*

Please give this to the person at the information table. Thank you.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2011 JAN 31 PM 4:46  
CHIEF CLERKS OFFICE

*CM*

I am against the establishment  
of any coal mining company or  
related business in the city of  
Eagle Pass, Maverick County  
surrounding areas (counties).

OPA RECEIVED  
JAN 25 2011

AT PUBLIC MEETING

Estoy en contra del establecimiento  
de cualquier compañía minera de carbón  
o cualquier negocio parecido o relacionado  
a eso o este asunto en la ciudad de  
Eagle Pass, Condado de Maverick, otras  
ciudades cercanas o condados vecinos.  
Quiero dejarle a mis hijos ya mis  
nietos un ambiente saludable con agua, aire y  
subsuelo saludables.

CHIEF CLERKS OFFICE  
JAN 21 10 10 AM  
2011

2011 JAN 31 PM 4: 46  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



# OPA  
AUG 31 2011

BY bp

LAW OFFICES OF  
TEXAS RIOGRANDE LEGAL AID, INC.  
542 Main Street  
P. O. Box 2001  
EAGLE PASS, TEXAS 78853

1WD  
72370

Telephone (830) 752-6400

FAX (830) 773-5806

August 29, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-2967

CHIEF CLERKS OFFICE

AUG 29 11 10 58

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: Dos Republicas Coal Partnership  
Permit No. WQ0003511000  
CONTESTED CASE HEARING REQUEST

Dear Ms. Chao:

Our office has been retained by the Maverick County Environmental and Public Health Association to assist it to request a contested case hearing, and to represent the Association in said proceedings if the request is granted. We, hereby, request a contested case hearing on behalf of the Maverick County Environmental and Public Health Association in the above referenced proceedings.

The Association is composed of 118 members, and the certificate of filing submitted to the office of the Secretary of State on April 27, 2011, states that the Association's purpose is:

[t]o advocate, educate, promote, develop, sponsor, support, host, assist, provide, teach, and train, the people of Maverick County, Texas about the protection of the environment and public health; to advocate, educate, promote, sponsor, support, host, assist, provide, teach, train, monitor, and participate in the protection of any and all air, water, natural resources, endangered species, wildlife, livestock, fauna, and humans in Maverick County, Texas and world-wide; to protect, advocate, educate, promote, sponsor, support, teach, train, assist, participate, and develop the public health of all the people of Maverick County, Texas and world-wide; and to engage, participate, and perform any and all lawful activities and purposes permitted by law.

*MW*

See, Certificate of Formation Non-profit Corporation filed with the Office of the Secretary of State on April 27, 2011, attached hereto as Exhibit A.

That one or more members of the Association would otherwise have standing to request a hearing in their own right is evidenced by the fact that the Railroad Commission of Texas has already granted party status to the Association; and Association members Gabriel and Leticia De La Cerda, Albert and Tina Ellis, Humberto and Ana Gamez, Alonzo and Eva Gonzalez, Mike P. Hernandez, Ernesto Ibarra, James and Rosa O'Donnell, E.K. and Betty Taylor in Docket No. C5-0003-SC-42-C, Dos Republicas Coal Partnership, Permit No. 42A, Eagle Pass Mine Renewal/Revision/Expansion Application. These Association members are all land owners who live in close proximity to the proposed Eagle Pass Mine. It is the Association's understanding that some of these members will also be requesting a contested case hearing, and will be seeking to participate in the proceeding before the Texas Commission on Environmental Quality.

The Association and the foregoing members are concerned that the proposed discharge of storm water and mine seepage and dust from the proposed sub-bituminous coal mine will contaminate and degrade the quality of the water on Elm Creek and its tributaries such as Maverick County Water Control & Improvement District No. 1 Canal Lateral 20. These Association members use the water to bathe, do laundry, and wash dishes; water pecan trees, vegetable and flower gardens; it is also the source of water for their pets and livestock. Elm Creek is also a riparian wildlife corridor. It provides the water that gives life to fish, deer, birds, and the endangered ocelot and jaguarondi. The life of each Association member will be adversely affected, each in their own unique way, if TPDES Permit WQ0003511000 is renewed and Dos Republicas Coal Partnership starts contaminating the water of Elm Creek and its tributaries. For example, Mr. Jim O'Donnell who has a very aggressive form of skin cancer is concerned that his condition will be exacerbated when he starts bathing with water contaminated by mine seepage and dust. Mr. Jim O'Donnell and his wife, Rosa O'Donnell have also had the pleasure of seeing an endangered jaguarondi in the area of Elm Creek, and are concerned this privilege will be no more if the waters of Elm Creek are allowed to be contaminated by mine seepage.

The De La Cerda family have ten acres of land which borders on Elm Creek. They use the water of Elm Creek for household purposes, and consume the fish they catch from Elm Creek. They are avid bird watchers and from their back porch have seen amongst other wildlife, the Green Jay, Hummingbirds, Woodpeckers, Kiskadee Flycatcher, Red Winged Black Bird, Painted Buntings, Wild Turkey and Deer. They hunt on their property, and have had the pleasure of seeing the endangered ocelot from their blind. The De La Cerda family worked hard to purchase their property, build their home, and have been good stewards of their property in order to enjoy the wildlife of Southwest Texas. All these will disappear if Dos Republicas Coal Partnership is allowed to discharge mine seepage into the Elm Creek wildlife corridor. For a more detailed description of each Association member's particularized injury, we hereby refer

the TCEQ to the request for a contested case hearing submitted by the individual members of the Association.

The Association vigorously opposes the renewal of Dos Republicas Coal Partnership, Permit No. WQ0003511000 because it disputes the Executive's Director response to comment 3 as the proposed discharge of mine seepage into Elm Creek and its tributaries will contaminate the water, and the water quality will be degraded to an extent that it will adversely affect the health and safety of aquatic life, individuals and other wildlife that come into contact with the water, and the ground water in the vicinity of Elm Creek will also be contaminated. The Association also disputes the Executive Director's response to Comment 4 because the contaminants from the mine seepage that will degrade the water quality of Elm Creek will flow into the Rio Grande River, the City of Eagle Pass Water Works System draws its water from the Rio Grande River at a point within 1 mile of the point Elm Creek enters the Rio Grande River, when the Rio Grande River water contaminated by mine seepage reaches the public water supply system entry point it is not diluted enough not to adversely affect the public water supply system. This will adversely affect the health of all Association members and other persons that get their drinking water through the City of Eagle Pass Water Work Systems.

Furthermore, the application is incomplete and inaccurate in that it fails to include all required information. It does not include a complete list of all names and addresses of persons affected by the proposed application. It is not consistent or compatible with applicable water quality management plans. It does not contain adequate facility designs and specifications.

---

There was not proper notice of the application. For example, there was not mailed notice to all persons on the agency's mailing list, property or timely newspaper notice or notice in Spanish. There was not accurate and sufficient information in the notice nor was the notice published or posted in accordance with the law.

The permit fails to provide clear and enforceable terms as to the character of the discharge, flow limitations, and adequate monitoring and reporting including sufficient frequency and type of monitoring, including whole toxicity monitoring, to detect violations or evaluate the toxicity, as conditions of discharge and conditions in the receiving waters change from time to time.

Renewal of the permit must be denied because it does not comply with agency rules. Renewal would allow contamination of ground and surface water, would not require use of the best available technology, would allow violation of water quality standards, degradation of the receiving waters and cause health hazards, nuisances and other adverse effects to the public and environment including the receiving water and nearby recreational areas.

Melissa Chao, Acting Chief Clerk

August 29, 2011

Page 4

We, respectfully request, that the following individuals be copied on all correspondence related to this proceedings.

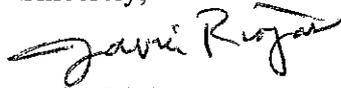
Javier Riojas  
Attorney-at-Law  
Texas RioGrande Legal Aid, Inc.  
542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830) 752-6400  
Fax (830) 773-5806  
E-mail [jriojas@trla.org](mailto:jriojas@trla.org)

Enrique Valdivia  
Attorney-at-Law  
Texas RioGrande Legal Aid, Inc.  
1111 North Main Street  
San Antonio, Texas 78212  
Tel. (210) 212-3700  
Fax (210) 212-3772  
E-mail [evaldivia@trla.org](mailto:evaldivia@trla.org)

Jose Luis Rosales, President  
Maverick County Environmental And Public Health Association  
3737 Deer Run Blvd.  
Eagle Pass, Texas 78852

I thank you in advance for the consideration given to this request for a contested case hearing.

Sincerely,



Javier Riojas  
Attorney-at-Law

JR:mjf



Office of the Secretary of State

CERTIFICATE OF FILING  
OF

MAVERICK COUNTY ENVIRONMENTAL AND PUBLIC HEALTH  
ASSOCIATION, INC.

File Number: 801418730

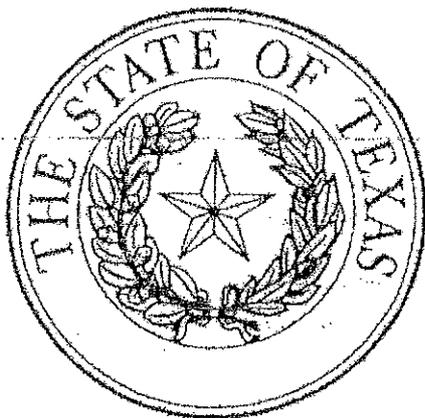
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 04/27/2011

Effective: 04/27/2011



A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade  
Secretary of State

EXHIBIT A

Come visit us on the internet at <http://www.sos.state.tx.us/>



Director 2				
DIANA	L	SANCHEZ		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>		<i>Suffix</i>
3737 DEER RUN BLVD	EAGLE PASS	TX	78852	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Director 3				
JUANITA		MARTINEZ		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>		<i>Suffix</i>
3737 DEER RUN BLVD	EAGLE PASS	TX	78852	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

OR

The management of the affairs of the corporation is to be vested in the nonprofit corporation's members.

#### Article 4 – Membership

(See instructions. Do not select statement B if the corporation is to be managed by its members.)

- A. The nonprofit corporation shall have members.
- B. The nonprofit corporation will have no members.

#### Article 5 – Purpose

(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:

To advocate, educate, promote, develop, sponsor, support, host, assist, provide, teach, and train, the people of Maverick County, Texas about the protection of the environment and public health;

The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.

to advocate, educate, promote, sponsor, support, host, assist, provide, teach, train, monitor, and participate in the protection of any and all air, water, natural resources, endangered species, wildlife, livestock, fauna, and humans in Maverick County, Texas and world-wide; to protect, advocate, educate, promote, sponsor, support, teach, train, assist, participate, and develop the public health of all the people of Maverick County, Texas and worldwide; and to engage, participate, and perform any and all lawful activities and purposes permitted by law.

Supplemental Provisions/Information

(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

[Empty rectangular box for addendum text]

Organizer

The name and address of the organizer:

JOSE LUIS ROSALES

Name

3737 DEER RUN BLVD

Street or Mailing Address

EAGLE PASS

City

TX

State

78552

Zip Code

Effectiveness of Filing (Select either A, B, or C.)

- A.  This document becomes effective when the document is filed by the secretary of state.
- B.  This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C.  This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

The following event or fact will cause the document to take effect in the manner described below:

[Empty rectangular box for event or fact description]

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: 4/26/11

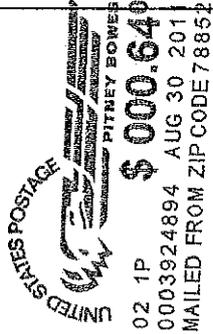
*Jose Luis Rosales*  
Signature of organizer

JOSE LUIS ROSALES

Printed or typed name of organizer

Javier Riojas  
Attorney-at-Law  
Texas RioGrande Legal Aid, Inc.  
542 Main Street  
Eagle Pass, TX 78852

RECEIVED  
AUG 31 2011  
TCEQ MAIL CENTER



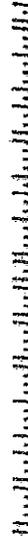
02 1P  
0003924894 AUG 30 2011  
MAILED FROM ZIP CODE 78852

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2011 AUG 31 AM 10: 57

CHIEF CLERKS OFFICE

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-2967



78711308767



LAW OFFICES OF  
TEXAS RIOGRANDE LEGAL AID, INC.  
542 Main Street  
P. O. Box 2001  
EAGLE PASS, TEXAS 78853

*LWD*  
*7-23-10*

Telephone (830) 752-6400

FAX (830) 773-5806

August 29, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, TX 78711-2967

OPA

AUG 30 2011

*H*

BY *[Signature]*

CHIEF CLERKS OFFICE

AUG 29 PM 4:31

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Re: Dos Republicas Coal Partnership  
Permit No. WQ0003511000  
CONTESTED CASE HEARING REQUEST

Dear Ms. Chao:

Our office has been retained by the Maverick County Environmental and Public Health Association to assist it to request a contested case hearing, and to represent the Association in said proceedings if the request is granted. We, hereby, request a contested case hearing on behalf of the Maverick County Environmental and Public Health Association in the above referenced proceedings.

The Association is composed of 118 members, and the certificate of filing submitted to the office of the Secretary of State on April 27, 2011, states that the Association's purpose is:

~~[t]o advocate, educate, promote, develop, sponsor, support, host, assist, provide, teach, and train, the people of Maverick County, Texas about the protection of the environment and public health; to advocate, educate, promote, sponsor, support, host, assist, provide, teach, train, monitor, and participate in the protection of any and all air, water, natural resources, endangered species, wildlife, livestock, fauna, and humans in Maverick County, Texas and world-wide; to protect, advocate, educate, promote, sponsor, support, teach, train, assist, participate, and develop the public health of all the people of Maverick County, Texas and world-wide; and to engage, participate, and perform any and all lawful activities and purposes permitted by law.~~

*[Handwritten initials]*

Melissa Chao, Acting Chief Clerk  
August 29, 2011  
Page 2

See, Certificate of Formation Non-profit Corporation filed with the Office of the Secretary of State on April 27, 2011, attached hereto as Exhibit A.

That one or more members of the Association would otherwise have standing to request a hearing in their own right is evidenced by the fact that the Railroad Commission of Texas has already granted party status to the Association; and Association members Gabriel and Leticia De La Cerda, Albert and Tina Ellis, Humberto and Ana Gamez, Alonzo and Eva Gonzalez, Mike P. Hernandez, Ernesto Ibarra, James and Rosa O'Donnell, E.K. and Betty Taylor in Docket No. C5-0003-SC-42-C, Dos Republicas Coal Partnership, Permit No. 42A, Eagle Pass Mine Renewal/Revision/Expansion Application. These Association members are all land owners who live in close proximity to the proposed Eagle Pass Mine. It is the Association's understanding that some of these members will also be requesting a contested case hearing, and will be seeking to participate in the proceeding before the Texas Commission on Environmental Quality.

The Association and the foregoing members are concerned that the proposed discharge of storm water and mine seepage and dust from the proposed sub-bituminous coal mine will contaminate and degrade the quality of the water on Elm Creek and its tributaries such as Maverick County Water Control & Improvement District No. 1 Canal Lateral 20. These Association members use the water to bathe, do laundry, and wash dishes; water pecan trees, vegetable and flower gardens; it is also the source of water for their pets and livestock. Elm Creek is also a riparian wildlife corridor. It provides the water that gives life to fish, deer, birds, and the endangered ocelot and jaguarondi. The life of each Association member will be adversely affected, each in their own unique way, if TPDES Permit WQ0003511000 is renewed and Dos Republicas Coal Partnership starts contaminating the water of Elm Creek and its tributaries. For example, Mr. Jim O'Donnell who has a very aggressive form of skin cancer is concerned that his condition will be exacerbated when he starts bathing with water contaminated by mine seepage and dust. Mr. Jim O'Donnell and his wife, Rosa O'Donnell have also had the pleasure of seeing an endangered jaguarondi in the area of Elm Creek, and are concerned this privilege will be no more if the waters of Elm Creek are allowed to be contaminated by mine seepage.

The De La Cerda family have ten acres of land which borders on Elm Creek. They use the water of Elm Creek for household purposes, and consume the fish they catch from Elm Creek. They are avid bird watchers and from their back porch have seen amongst other wildlife, the Green Jay, Hummingbirds, Woodpeckers, Kiskadee Flycatcher, Red Winged Black Bird, Painted Buntings, Wild Turkey and Deer. They hunt on their property, and have had the pleasure of seeing the endangered ocelot from their blind. The De La Cerda family worked hard to purchase their property, build their home, and have been good stewards of their property in order to enjoy the wildlife of Southwest Texas. All these will disappear if Dos Republicas Coal Partnership is allowed to discharge mine seepage into the Elm Creek wildlife corridor. For a more detailed description of each Association member's particularized injury, we hereby refer

---

Melissa Chao, Acting Chief Clerk  
August 29, 2011  
Page 3

the TCEQ to the request for a contested case hearing submitted by the individual members of the Association.

The Association vigorously opposes the renewal of Dos Republicas Coal Partnership, Permit No. WQ0003511000 because it disputes the Executive's Director response to comment 3 as the proposed discharge of mine seepage into Elm Creek and its tributaries will contaminate the water, and the water quality will be degraded to an extent that it will adversely affect the health and safety of aquatic life, individuals and other wildlife that come into contact with the water, and the ground water in the vicinity of Elm Creek will also be contaminated. The Association also disputes the Executive Director's response to Comment 4 because the contaminants from the mine seepage that will degrade the water quality of Elm Creek will flow into the Rio Grande River, the City of Eagle Pass Water Works System draws its water from the Rio Grande River at a point within 1 mile of the point Elm Creek enters the Rio Grande River, when the Rio Grande River water contaminated by mine seepage reaches the public water supply system entry point it is not diluted enough not to adversely affect the public water supply system. This will adversely affect the health of all Association members and other persons that get their drinking water through the City of Eagle Pass Water Work Systems.

Furthermore, the application is incomplete and inaccurate in that it fails to include all required information. It does not include a complete list of all names and addresses of persons affected by the proposed application. It is not consistent or compatible with applicable water quality management plans. It does not contain adequate facility designs and specifications.

There was not proper notice of the application. For example, there was not mailed notice to all persons on the agency's mailing list, property or timely newspaper notice or notice in Spanish. There was not accurate and sufficient information in the notice nor was the notice published or posted in accordance with the law.

The permit fails to provide clear and enforceable terms as to the character of the discharge, flow limitations, and adequate monitoring and reporting including sufficient frequency and type of monitoring, including whole toxicity monitoring, to detect violations or evaluate the toxicity, as conditions of discharge and conditions in the receiving waters change from time to time.

Renewal of the permit must be denied because it does not comply with agency rules. Renewal would allow contamination of ground and surface water, would not require use of the best available technology, would allow violation of water quality standards, degradation of the receiving waters and cause health hazards, nuisances and other adverse effects to the public and environment including the receiving water and nearby recreational areas.

---

Melissa Chao, Acting Chief Clerk  
August 29, 2011  
Page 4

We, respectfully request, that the following individuals be copied on all correspondence related to this proceedings.

Javier Riojas  
Attorney-at-Law  
Texas RioGrande Legal Aid, Inc.  
542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830) 752-6400  
Fax (830) 773-5806  
E-mail [jriojas@trla.org](mailto:jriojas@trla.org) ✓

IP # 161862

Enrique Valdivia  
Attorney-at-Law  
Texas RioGrande Legal Aid, Inc.  
1111 North Main Street  
San Antonio, Texas 78212  
Tel. (210) 212-3700  
Fax (210) 212-3772  
E-mail [evaldivia@trla.org](mailto:evaldivia@trla.org) ✓

IP # 38320

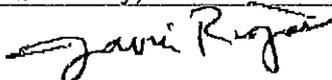
Jose Luis Rosales, President  
Maverick County Environmental And Public Health Association  
3737 Deer Run Blvd.  
Eagle Pass, Texas 78852

IP # 160200

I thank you in advance for the consideration given to this request for a contested case hearing.

---

Sincerely,



Javier Riojas  
Attorney-at-Law

JR:mjf

Corporations Section  
P.O. Box 13697  
Austin, Texas 78711-3697

Hope Andrade  
Secretary of State



Office of the Secretary of State

CERTIFICATE OF FILING  
OF

MAVERICK COUNTY ENVIRONMENTAL AND PUBLIC HEALTH  
ASSOCIATION, INC.  
File Number: 801418730

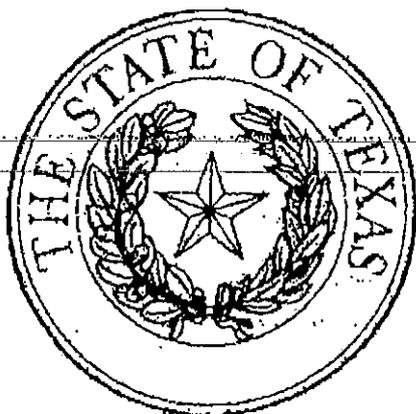
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 04/27/2011

Effective: 04/27/2011



Hope Andrade  
Secretary of State

EXHIBIT A

Form 202  
(Revised 12/09)

Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512/463-5709  
Filing Fee: \$25



This space reserved for office use.

Certificate of Formation  
Nonprofit Corporation

FILED  
In the Office of the  
Secretary of State of Texas  
APR 27 2011  
Corporations Section

Article 1 - Entity Name and Type

The filing entity being formed is a nonprofit corporation. The name of the entity is:

MAVERICK COUNTY ENVIRONMENTAL AND PUBLIC HEALTH ASSOCIATION, INC.

Article 2 - Registered Agent and Registered Office  
(See instructions. Select and complete either A or B and complete C.)

A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

JOSE LUIS ROSALES  
First Name M.I. Last Name Suffix

C. The business address of the registered agent and the registered office address is:

3737 DEER RUN BLVD EAGLE PASS TX 78852  
Street Address City State Zip Code

Article 3 - Management

The management of the affairs of the corporation is vested in the board of directors. The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of members or until their successors are elected and qualified are as follows:

*A minimum of three directors is required.*

Director 1				
First Name	M.I.	Last Name	State	Zip Code
JOSE LUIS		ROSALES	TX	78852
3737 DEER RUN BLVD		EAGLE PASS	TX	78852
Street or Mailing Address		City	State	Zip Code

Director 2				
DIANA	L	SANCHEZ		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
3737 DEER RUN BLVD	EAGLE PASS	TX	78852	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

Director 3				
JUANITA		MARTINEZ		
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
3737 DEER RUN BLVD	EAGLE PASS	TX	78852	USA
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>	<i>Country</i>

OR

The management of the affairs of the corporation is to be vested in the nonprofit corporation's members.

**Article 4 - Membership**

(See instructions. Do not select statement B if the corporation is to be managed by its members.)

- A. The nonprofit corporation shall have members.
- B. The nonprofit corporation will have no members.

**Article 5 - Purpose**

(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:

To advocate, educate, promote, develop, sponsor, support, host, assist, provide, teach, and train, the people of Maverick County, Texas about the protection of the environment and public health;

The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.

to advocate, educate, promote, sponsor, support, host, assist, provide, teach, train, monitor, and participate in the protection of any and all air, water, natural resources, endangered species, wildlife, livestock, fauna, and humans in Maverick County, Texas and world-wide; to protect, advocate, educate, promote, sponsor, support, teach, train, assist, participate, and develop the public health of all the people of Maverick County, Texas and worldwide; and to engage, participate, and perform any and all lawful activities and purposes permitted by law.

**Supplemental Provisions/Information**  
(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

**Organizer**

The name and address of the organizer:

JOSE LUIS ROSALES

Name

3737 DEER RUN BLVD

Street or Mailing Address

EAGLE PASS

City

TX

State

78552

Zip Code

**Effectiveness of Filing** (Select either A, B, or C.)

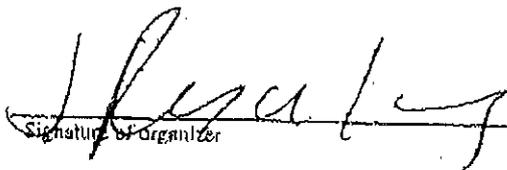
- A.  This document becomes effective when the document is filed by the secretary of state.
- B.  This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C.  This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

The following event or fact will cause the document to take effect in the manner described below:

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: 4/26/11

  
Signature of Organizer

JOSE LUIS ROSALES

Printed or typed name of organizer

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
AUG 29 PM 4:31  
CHIEF CLERKS OFFICE

LAW OFFICES OF  
TEXAS RIOGRANDE LEGAL AID, INC.  
542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830)752-6400/Fax. (830) 773-5806

FACSIMILE COVER SHEET

TO: MELISSA CHAO, ACTING CHIEF CLERK, TCEQ  
FAX NUMBER: (512) 239-3311  
FROM: JAVIER RIOJAS  
DATE: AUGUST 29, 2011  
RE: DOS REPUBLICAS COAL PARTNERSHIP, PERMIT NO. W00003511000  
NUMBER OF PAGES (including cover): 9 pages

IF PROBLEMS WITH TRANSMISSION, PLEASE CALL (830) 773-6151

\*\*\*\*\*

HERE IS REQUEST FOR A CONTESTED CASE HEARING  
OF MAVERICK COUNTY ENVIRONMENTAL AND PUBLIC  
HEALTH ASSOCIATION

\*\*\*\*\*

NOTICE

THE INFORMATION CONTAINED IN THIS CONFIDENTIAL COMMUNICATION MAY BE PROTECTED FROM DISCLOSURE BY THE ATTORNEY-CLIENT PRIVILEGE, BY THE ATTORNEY WORK-PRODUCT PRIVILEGE, OR AS A CONFIDENTIAL COMMUNICATION FOR SETTLEMENT PURPOSES ONLY. THIS CONFIDENTIAL COMMUNICATION IS INTENDED ONLY FOR THE PERSON NAMED ABOVE, AND THE FOREGOING PRIVILEGES ARE NOT WAIVED BY VIRTUE OF THIS HAVING BEEN SENT BY FACSIMILE.

IF THE CONFIDENTIAL COMMUNICATION IS RECEIVED BY ANY PERSON OTHER THAN THE PERSON NAMED ABOVE OR THAT PERSON'S AUTHORIZED AGENT OR EMPLOYEE, BE ON NOTICE THAT ANY USE, COPYING, DISSEMINATION OR DISTRIBUTION OF THIS CONFIDENTIAL COMMUNICATION IS STRICTLY FORBIDDEN. IF YOU HAVE RECEIVED THIS CONFIDENTIAL COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND RETURN THIS COMMUNICATION TO THE SENDER AT THE ADDRESS LISTED ABOVE VIA THE U.S. MAIL.

---

**From:** PUBCOMMENT-OPA  
**To:** PUBCOMMENT-OCC2  
**Date:** 8/29/2011 1:18 PM  
**Subject:** Fwd: Public comment on Permit Number WQ0003511000  
**Place:** PUBCOMMENT-OCC2  
**Attachments:** Dos Republicas Mike Hernandez Comments.pdf

H

>>> PUBCOMMENT-OCC 8/29/2011 11:57 AM >>>

>>> <jriojas@trla.org> 8/29/2011 11:46 AM >>>

**REGULATED ENTY NAME** DOS REPUBLICAS COAL PARTNERSHIP  
**RN NUMBER:** RN101529493  
**PERMIT NUMBER:** WQ0003511000  
**DOCKET NUMBER:**  
**COUNTY:** MAVERICK  
**PRINCIPAL NAME:** DOS REPUBLICAS COAL PARTNERSHIP  
**CN NUMBER:** CN600787782  
**FROM**  
**NAME:** MR Javier Riojas  
**E-MAIL:** [jriojas@trla.org](mailto:jriojas@trla.org)  
**COMPANY:** Texas RioGrande Legal Aid, Inc.  
**ADDRESS:** PO BOX 2001  
EAGLE PASS TX 78853-2001  
**PHONE:** 8307526400  
**FAX:** 8307735806

**COMMENTS:** Mr. Mike Hernandez sent his request for a contested case hearing by mail today and out of an abundance of caution requested that I help him electronically file same.

LWD  
72370

---

MW

Mike P. Hernandez  
Rt. 2 Box 171B  
Eagle Pass, TX 78852  
(830) 968-7880

August 28, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O.Box 13087  
Austin, TX 78711-3087

RE: Application by Dos Republicas Coal Partnership for TPDES Permit #WQ 0003511000

Dear Ms. Chao,

I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit # WQ 0003511000 to Dos Republicas Coal Partnership.

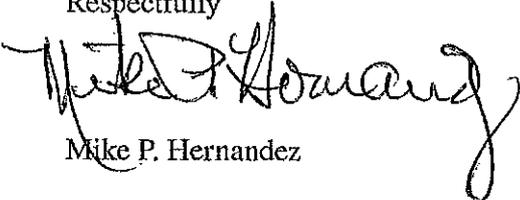
My property is surrounded by the permit area and the Elm Creek runs through my property, as well as canal lateral 20.

My family uses the Elm Creek for recreational purposes as well as for fishing. Canal lateral 20 is used for irrigation as I use it to water my crops (Oats, sorghum, and rye). Although I do not sell these crops I use them to feed my horses and goats, which I do sell. I also use the water from canal lateral 20 to fill stock tank which does have several species of fish,(bass, perch, catfish, carp) as well as filling water troughs for the local wildlife (deer, turkey, feral hogs, javelina, and raccoons). I also use the canal water for household purposes.

Ms. Chao, I am very concerned about the environmental damage to my property, the Elm Creek, and canal lateral 20. .

I currently have party status before the Railroad Commission and I respectfully request that a TCEQ contested hearing be granted and that I may be granted party status.

Respectfully



Mike P. Hernandez

Betty E. K. Taylor  
Rt. 2, Box 186  
Eagle Pass, TX 78852

LWD  
DMD  
72370

August 29, 2011

Melissa Chao, Acting Chief Clerk

TCEQ, MC-105

P.O. Box 13087

Austin, Texas 78711-3087

CHINA  
OPA  
AUG 31 2011  
BY [Signature]  
OFFICE  
TEXAS  
COMMISSION  
ON  
ENVIRONMENTAL  
QUALITY

RE: Application by Dos Republicas Coal  
Partnership for TPDES Permit # WQ000351100

Dear Mrs. Chao,

I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit # WQ000351100 to Dos Republicas Coal Partnership. Our property is against the permit area with only a fence and lateral 20 between us.

We have a dirt tank in the back of our property which we fill with water from lateral 20, and water is pumped out to provide household water and water for plants, deer, and wild birds. This tank is stocked with perch, and other fish which provide recreation for family and guests. We are very concerned that coal dust falling on lateral 20 will adversely affect

MW

the water in our house and that which is consumed by our wildlife.

We are very concerned about the environmental damage to both lateral 20 and Elm Creek.

We currently have party status before the Railroad Commission, and we respectfully request that a TCEQ contested hearing ~~be~~ granted and that we may ~~be~~ granted party status.

Respectfully

Betty + E.K. Taylor

E. K. TAYLOR  
Rt. 2, Box 186  
Eagle Pass, TX 78852



MELISSA CHAO, ACTING CHIEF CLERK  
TCEQ, MC-105  
P.O. BOX 13087  
Austin, TX 78711-3087

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Betty + E.K. Taylor  
Rt. 2, Box 186  
Eagle Pass, TX 78852

AUG 30 2011

BY

BP

August 29, 2011

Melissa Chao, Acting Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

CHIEF CLERK'S OFFICE

AUG 30 2011 09

TXRIS  
COMMUNICATIONS  
DIVISION

RE: Application by Dos Republicas Coal  
Partnership for TPDES Permit # WQ0003511000

Dear Mrs. Chao,

I am requesting that a contested case hearing be held for the proposed renewal of TPDES Permit # WQ0003511000 to Dos Republicas Coal Partnership. Our property is against the permit area with only a fence and lateral 20 between us.

We have a dirt tank in the back of our property which we fill with water from lateral 20, and water is pumped out to provide household water and water for plants, deer, and wild birds. This tank is stocked with perch, and other fish which provide recreation for family and guests. We are very concerned that coal dust falling on lateral 20 will adversely affect

MW

-2-

the water in our house and that which is consumed by our wildlife.

We are very concerned about the environmental damage to both lateral 20 and Elm Creek.

We currently have party status before the Railroad Commission, and we respectfully request that a TCEQ contested hearing ~~be~~ granted and that we may be granted party status.

Respectfully

Betty + E.K. Taylor

LAW OFFICES OF

TEXAS RIOGRANDE LEGAL AID, INC.

542 E. Main Street  
P.O. Box 2001  
Eagle Pass, Texas 78853  
Tel. (830)752-6400/Fax. (830) 773-5806

TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY  
AUG 29 2 11 40 09  
CHIEF CLERKS OFFICE

FACSIMILE COVER SHEET

TO: Melissa Chao, Acting Chief Clerk, TCEQ  
FAX NUMBER: (512) 239-3311  
FROM: Betty and E.K. Taylor  
DATE: August 29, 2011  
RE: Dos Republicas Coal Partnership, Permit No. WQ0003511000  
NUMBER OF PAGES (including cover): 3

IF PROBLEMS WITH TRANSMISSION, PLEASE CALL (830) 773-6151

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Here is our request for a Contested Case Hearing.

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